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THE GOVERNMENT OF THE CATHOLIC CHURCH

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THE GOVERNMENT OF THE CATHOLIC CHURCH

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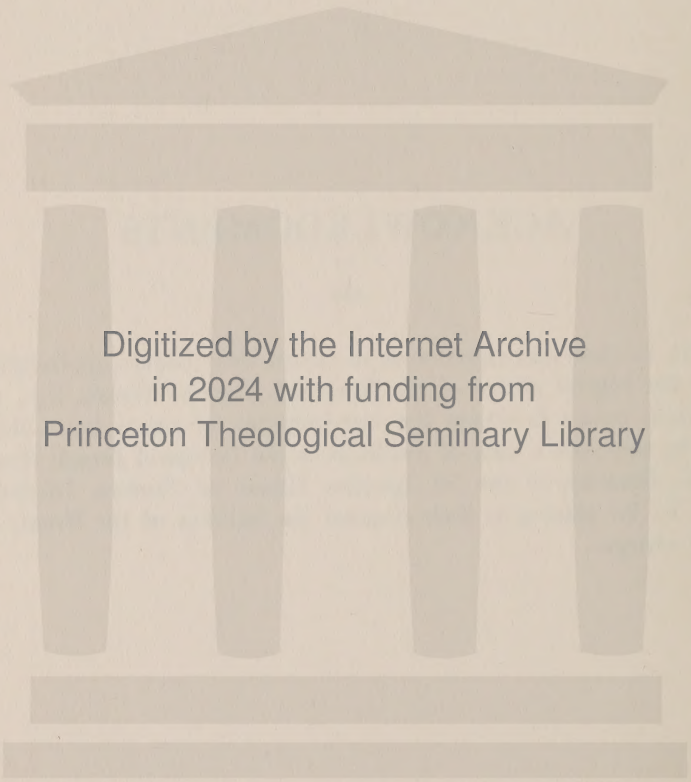
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FOREWORD



To HAVE been asked by two of my distinguished colleagues at Hunter College to write a brief foreword for a book which one of them has written and the other has edited with care, is more than a courteous invitation to share with them their pride of achievement. Of course it was not in pride that they put this book to paper and print, but merely in the hope that a short, factual and in the best sense scholarly treatment of the important subject with which they are concerned will help many to see how the Catholic Church is governed.

Governed it certainly is under a system of law and legal interpretation which, akin in this respect to the jurisprudence of civil states, is adapted to meet the complex situations which arise among human beings. Many centuries have contributed to making the *Codex Juris Canonici,* as the compilation of Church law is termed, the flexible and usable body of legislation it is. Many will view it with suspicion, and others will feel, as they are introduced to it, more than a vague sense of alarm. What manner of Church is this, they may inquire, which ventures in an age of secular science to suggest that there are mandates other than those of the almighty state by which men's lives should be ruled? Yet even these people, one ventures to assume, will be impressed by the calm assurance of ecclesiastical legislators as well prepared to deliver a judgment on human frailty and virtue from the potential catacombs of the post-modern era as from a Rome secure in the very relative security of the Middle Ages.

I feel that Professor Lynskey and Professor Meng have tried to present this extraordinary religious institution as objectively as possible. That they have been fully aware of the many difficulties inherent in their task the reader will assuredly recognize. But it seems to me that they have also sensed the rare adventure which those encounter who try to fathom the mystery of the Church—a society which, from its origin in Christ's teaching,

despite all human frailty has been aware that unless it remained faithful to the guidance of the Holy Spirit and reckoned fully with all that is good and evil in the breast of man, it would soon seem far more pitiful and even ridiculous than any other institution of which history has knowledge. It is true that those who read this informative book carefully will not have penetrated into the sanctuary of the Catholic faith or have been confronted with those mysteries which to the believer are axioms. But they will have seen how that Church reckons with human defection and bondage, with human virtue and aspiration. They will have gained a fresh insight into the daily mundane operation of an institution which, despite its careful prescription for endless variety of conduct and decision, still believes that freedom is a precious gift of God to man, to be cherished, respected and safeguarded. In short, while the book will leave some questions unanswered, it will respond unmistakably to many, and they are not the least important.

This is a quiet, helpful, carefully written book devoid, be it noted with gratitude, of a sense of contumely. I am sure many Americans will agree with this verdict when they have read what Professors Lynskey and Meng have to say.

George N. Shuster

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INTRODUCTION

Current discussions involving the real or hypothetical relations of Church and State have created considerable popular interest in the government of the Roman Catholic Church. Catholics and non-Catholics alike find themselves frequently confused by the complexities of an organization which is international in scope and which operates on the basis of laws, regulations, and precedents of bewildering age and variety. This small volume is an attempt to provide an outline of the major features of the government of this Church in terms that are objective, precise, and non-controversial.

This is a book written by Catholics. It therefore accepts as true the theological concepts of Roman Catholicism, without demanding that its readers do likewise. The law and organization of the Catholic Church may be understood only when studied within the basic framework of the theological structure of that Church, whether the reader agrees with the theology or disputes it. Professor Lynskey, as a professional political scientist of high repute, analyzes herein a governmental structure from the point of view of organization, jurisdiction, and lines of authority. The fact that she is a Catholic heightens her perception of the principles, nuances, and overtones that give life and vitality to the organization of the Church. Neither author nor editor is concerned here with propagating Catholic doctrine. Their sole desire is to make available in handy format a brief, readable description of a complex institution that is loved by many, distrusted by others, and fully understood by too few.

The three central chapters of the book were prepared in 1949 by Professor Lynskey as papers read before the United States Catholic Historical Society. They were given a limited professional currency through publication in Vol. 39-40 of the Society's *Historical Records and Studies*. This edition has taken account of Church developments and of some related events occurring as late as January, 1952. Revisions or additions made necessary by the march of events since 1949 have been interpolated by the editor.

Many phases of Church government and administration are not discussed in these pages. Depicted herein are the central lines of authority and administration only. The government of the Catholic Church, like all governments of any size or extent, grows and changes from day to day. This growth, these changes, may be relatively imperceptible, yet they are sufficient to make almost immediately invalid any attempted complete and detailed exposition of all phases of Church organization. While administrative techniques may and do change in detail to meet altered circumstances of time and place, the general rules for the conduct of Church government remain remarkably stable. These pages concern themselves with the general rules, the chief agencies, and the underlying principles that guide and give form to the organization of the Church.

This volume is not concerned directly with matters of faith, dogma, or morals. It deals rather with the organizational structure designed to spread the Faith, to preserve dogma intact and unchanged, and to exercise the moral teaching function delegated by Christ to His Apostles. The rules of canon law discussed below include neither a profession of faith nor a listing of dogmatic truths that Catholics must believe, although the *Professio Catholicae Fidei* immediately precedes the canons in all official prints of the law.

The sources of Catholic doctrine are Holy Scripture and oral tradition. The Pope, or an oecumenical council, may define doctrine—they do not create it. Such defined doctrine is called dogma. All Catholics have the moral obligation of giving intellectual and unwavering assent to the truth so defined. All this is implicit, and occasionally even explicit, in canon law. Yet canon law and dogma are quite different. Dogma may be explained—it cannot be changed. It is the infallible definition of the will of the divine Founder of Christianity—eternal and unchangeable. Canon law and certain phases of Church administration are instrumentalities designed to accomplish effectively the spiritual ends imposed by Jesus Christ upon His Church. The government of the Church was instituted by Christ Himself; the details of its administration have been worked out over the centuries by the successors to St.

Peter and the Apostles. When administrative techniques become obsolete, outmoded, or inadequate to the accomplishment of the Divine mission, they may be amended or revoked, and new agencies and techniques may be created at the will of duly constituted authority.

Basic to the administration of the Catholic Church is the *Codex Juris Canonici,* sometimes called the "new" Code of Canon Law. The *Codex* now in force in the Church was promulgated by Pope Benedict XV on May 27, 1917. With the exception of a few canons which had immediate effect, the Code became operative on May 19, 1918.

Canonical legislation had a long and complicated prior history. From the end of the first century A. D. until the Second Council of the Lateran in 1139 ecclesiastical legislation was embodied in letters of the Popes and in decisions of the ten oecumenical councils held between 325 and 1139. Various attempts were made during these eleven hundred years to organize and codify the tremendous mass of legislation that accumulated. None was very successful. Not until the twelfth century did relative success attend the effort to put in order the confused bulk of ecclesiastical legislation. An Italian monk, Gratian, prepared the *Concordantia Discordantium Canonum,* better known as *Gratian's Decree.* This was about 1140. Although not an official decree of the Church, this collection became the best-known book on canon law. It was later supplemented by a number of official collections of laws promulgated by various Popes between 1234 and 1500. These, together with *Gratian's Decree,* were collected, edited, and published in the latter year as the *Corpus Juris Canonici.* They did not, however, constitute a single, unified, code of laws.

The next landmark in the development of the Church's law was the Council of Trent (1545-1563). This Council marked what has been called the Catholic Counter Reformation. It defined questions of faith and adopted a great number of disciplinary measures respecting the organization and functioning of the Church.

From the Council of Trent to our own time—a period marked by the emergence of the national state system and revolutionary social changes of great significance—the law of the Church once more fell into a confused condition. *Gratian's Decree* was the only

general codification attempted prior to the twentieth century. It was not altogether satisfactory. For more than seven centuries after its preparation new laws and regulations accumulated in bewildering profusion. In the nineteenth century some partial codifications were successful. At the Vatican Council (1869-1870) the bishops of the Church indicated their desire for a thorough revision of ecclesiastical law.

Finally, in 1904, Pope Pius X appointed a commission of cardinals to undertake the task of codifying all ecclesiastical laws, eliminating obsolete enactments, and adapting the whole to modern conditions. The "new" Code of Canon Law was the result of the labors of this commission.

This Code, consisting of 2414 canons, or rules, is divided into five books dealing respectively with: 1) General Rules (canons 1-86); 2) Persons—clerics, religious, lay people (canons 87-725); 3) Things—sacraments, sacred places and times, divine worship, the teaching authority of the Church, benefices and other non-collegiate ecclesiastical institutions, temporal goods of the Church (canons 726-1551); 4) Procedure—trials, cases of beatification and canonization, procedure in certain matters or in applying penalties (canons 1552-2194); and 5) Crimes and Penalties (canons 2195-2414).[1]

Since 1918, therefore the *Codex Juris Canonici*, together with such new laws and regulations as have since been promulgated, is the principal official guide to the administration of the Church. A permanent pontifical commission is entrusted with the important continuing task of interpreting the law in its application to particular circumstances.

The *Codex Juris*, like the codes of civil states, is a collection of principles which must be applied in practice to a wide variety of special cases and circumstances. Every word and phrase is signifi-

[1]A handy outline of the history of canon law is contained in the introduction to T. Lincoln Bouscaren, S.J., and Adam C. Ellis, S.J., *Canon Law: A Text and Commentary* (Milwaukee, 1946). The authors have included also in their introduction a most helpful section on sources for the study of Church law prior to the Code. The paragraphs above dealing with the history of canon law are based largely upon the introductory sections of Bouscaren and Ellis.

cant and authoritative. Multi-volume commentaries on the Code have resulted from the necessarily painstaking analyses of its meaning and applications by canon lawyers. Its terms are general enough to permit wide latitude in the adaptation of Church administration to various circumstances, yet specific enough to ensure order and uniformity in jurisdiction.

Professor Lynskey has called attention to the adaptability of Church government to local circumstances, but has of necessity confined her inquiry largely to the area of general uniform practice. Space limits in a book this size preclude even the enumeration of particular departures from the norm. An organization exercising spiritual jurisdiction over millions of people in all inhabited portions of the globe must adapt its procedural rules and its administration to the needs and conditions of its communicants.

So, for example, Catholic members of the armed forces of the United States find their spiritual needs cared for by Catholic chaplains—priests in uniform. Because of the nature of their work these priests cannot be attached to regular geographically-located dioceses of the Church, nor to any specific mission territory. Yet the power they exercise with respect to those under their spiritual charge must have its source. There can be no such thing as an unattached Catholic priest properly exercising the powers of his priesthood. All authority within the Church flows from the Pope, the Bishop of Rome, and from his brother bishops scattered over the earth. In the case of our armed forces, Catholic chaplains, wherever they may be assigned by the nation's military authorities, are subject to the ecclesiastical jurisdiction of the Military Vicar of the United States who at the present time is Francis Cardinal Spellman. In this capacity the Cardinal utilizes a jurisdiction quite distinct from his authority as Archbishop of New York. This special authority is exercised through the office of the Military Ordinariate, physically located in New York City as a matter of convenience, but possessing jurisdiction over all Catholic chaplains and communicants in United States forces wherever they may be located. Cardinal Spellman is assisted in this phase of his duties by two auxiliary bishops for the armed forces. The Military Ordinariate is not a diocese; it possesses no geographical limits, yet

the Cardinal Vicar exercises with respect to it many, though not all, of the powers ordinarily exercised by the head of a diocese within the boundaries of his see.

Many additional instances of special modifications of usual procedure may be discovered in the world-wide organization of the Church. Most of the great powers have arrangements analogous to those of the United States with regard to the ecclesiastical supervision of Catholic chaplains in their armed forces. Other special arrangements have been made in recent years to provide spiritual care for displaced persons. In every such instance, however, the fundamental line of authority runs directly to the Holy See. Flexibility in detail, precision in jurisdictional principle characterize all Church administration.

Since 1929 the opportunity for confusion with respect to Catholic Church government has been increased. The Lateran accords of that year between the Holy See and the Kingdom of Italy recognized once more the temporal power of the Pope which had been effectively ended by the incorporation of the Papal States into the Italian kingdom during the nineteenth century. The Pope once more assumed in 1929 the status of a legally-recognized temporal sovereign.[2]

Professor Lynskey emphasizes in the following chapters the distinction between the government of the Catholic Church and the government of the State of Vatican City. This is a distinction most necessary to any intelligent discussion of United States policy towards the Vatican. It is also a distinction that has for Catholics important theological implications. Catholics believe that the government of the Church was instituted by Jesus Christ, and that primacy in that government was conferred by Him upon St. Peter and his successors. By virtue of this institution the Church exists, and must ever continue to exist, by the will of Christ as essentially an hierarchic and monarchic society. The State of

[2]The Popes never surrendered their claim to temporal sovereignty, although in practice that claim was only partially effective during the period 1870-1929. In 1906 the eminent American international lawyer, John Bassett Moore, described the situation of the Papacy in the following words: ". . . for special reasons, the Holy See occupies a position analogous to that of states, and the Pope is treated as a sovereign, and even as a privileged sovereign" (*A Digest of International Law,* I, 16).

Vatican City is the creation of a temporal treaty—theologically a much different thing. On the one hand the Pope is the acknowledged spiritual leader of millions of people recognizing and respecting diverse national loyalties. On the other hand he is the temporal ruler of a small, politically independent geographic enclave whose permanent residents recognize his civil authority as their legal sovereign. The civil law that governs this smallest of independent states is a law quite separate and distinct from the canon law that regulates the exercise of the Church's spiritual authority. The canon law antedates the establishment of the State of Vatican City and takes no direct cognizance of it. The temporal affairs of Vatican City are governed by a distinct civil law and by distinct administrative regulations, comparable in every way to similar rules of other independent states.

By the accepted and applied rules of modern political theory and international law, the State of Vatican City must be considered an independent political entity—a state in every sense of the term. The standard guide to American practice under international law, Hackworth's *Digest,*[3] lists Vatican City, together with Switzerland, Belgium, and Luxembourg, as a "neutralized state," and sets forth the treaty terms by which its status is defined.[4] It is worth noting further that this same authoritative *Digest* classifies states as "independent and dependent," the "independent" category including "simple," "composite," and "neutralized" states, the "dependent" category including "vassal or semi-sovereign" states and "protectorates."[5] International practice has recognized the sovereign status of political entities that exercise far less authority over their internal affairs than does the Holy See over Vatican City. A 1920 report to the First Assembly of the League of Nations with reference to the Principality of Liechtenstein read in part:

[3]Green H. Hackworth, *Digest of International Law* (Washington, 8 vol., 1940-44). This is an official publication of the United States Department of State, prepared by Mr. Hackworth while he was Legal Adviser to the Department. Judge Hackworth is today a member of the International Court of Justice.

[4]I, 66, 73-74.

[5]*Ibid.,* 58-97. The neutralized status of Vatican City, unlike that of Switzerland and Belgium, is not dependent on guarantees by other states, but stems from its own freely-expressed intent. This status was fully respected by all belligerents during World War II.

> The Government of the Principality of Liechtenstein has been recognized *de jure* by many States. She has concluded a number of Treaties with various States
>
> The Principality of Liechtenstein possesses a stable Government and fixed frontiers
>
> There can be no doubt that juridically the Principality of Liechtenstein is a sovereign State, but by reason of her limited area, small population, and her geographical position, she has chosen to depute to others some of the attributes of sovereignty. For instance, she has contracted with other Powers for the control of her Customs, the administration of her Posts, Telegraphs and Telephone Services, for the diplomatic representation of her subjects in foreign countries, other than Switzerland and Austria, and for final decision in certain judicial cases.
>
> Liechtenstein has no army.[6]

The trial of certain criminal offenses that might be committed within Vatican City is transferred to the Italian courts, but in all other respects the State of Vatican City exercises exclusive control over her internal affairs to a far greater extent than that outlined above in the case of Liechtenstein. It is true that the Pope has no army capable of defending the frontiers of Vatican City, but here again basic principles of American usage in international affairs support the papal claim to full temporal sovereignty within the confines of Vatican City.

Article 4 of the Convention on the Rights and Duties of States, signed by the United States on December 26, 1933, and subsequently ratified, reads:

> States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.[7]

This treaty is, in the phraseology of the Constitution of the United States, "the supreme Law of the Land."[8]

[6]Report of the Fifth Committee (on Admission to the League), Dec. 6, 1920. League of Nations, *Records of the First Assembly: Plenary Meetings* (1920), 652, 667.

[7]Hackworth, *Digest*, I, 98.

[8]Article VI, par. 2.

John Bassett Moore, in his brilliant study entitled *American Diplomacy, Its Spirit and Achievements,* declared in 1905 that

> the statesmen of America . . . planted themselves upon the principle of the equality of nations as expounded by Grotius and other masters of international law. This principle was expressed with peculiar felicity and force by Vattel, who declared that nations inherited from nature "the same obligations and rights," that power or weakness could not in this respect produce any difference, and that a "small republic" was "no less a sovereign state than the most powerful kingdom." The same thought was tersely phrased by Chief Justice Marshall in his celebrated affirmation: "No principle is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights."[9]

British law and practice, from which so many American legal principles stem, likewise uphold in international affairs the principle of the sovereignty of small states. In 1924 the House of Lords, sitting as Britain's highest court, stated:

> . . . it is not in the least necessary that for sovereignty there should be complete independence. It is quite consistent with sovereignty that the sovereign may in certain respects be dependent upon another Power; . . . there may be agreements or treaties which limit the powers of a sovereign even in internal affairs without entailing a loss of the position of a sovereign Power.[10]

The question of American diplomatic representation at Vatican City cannot be effectively opposed on the ground that Vatican City is not a state, or by the assertion that the Pope is not a temporal sovereign. The usage of states, the long-accepted principles of international law, and the provisions of American public law itself give no foundation for such arguments.

That is not to say, of course, that such representation may not be opposed on other grounds. Every state, including the United States, has the right and duty of determining, in the light of its

[9]Quoted in Hackworth, *Digest,* I, 98-99. Marshall's words appeared in his opinion, written in behalf of the Court, in the case of *The Antelope,* tried in the United States Supreme Court in 1825 (10 Wheaton 66).

[10]Opinion of Viscount Finlay in *Duff Development Company, Limited* v. *Government of Kelantan and Another,* quoted in Hackworth, *Digest,* I, 51.

own best interests, whether or not it will maintain diplomatic relations with other states. It may be argued that little would be gained from American representation at the Vatican—an argument deserving serious and careful consideration. It can hardly be asserted, in view of the clear-cut legal distinction between the State of Vatican City and the Roman Catholic Church that representation accredited to the Pope as sovereign of the State would constitute representation accredited to the Pope as ruler of the Church. That is not and could not be the case. The practice of states which have on occasion been virulently anti-Catholic is evidence in point. Anglican England, Mohammedan Egypt, Shintoist Japan—all have sent or are proposing to send diplomatic representatives to the Vatican. The rulers of these states have no difficulty in recognizing the legal distinction between the Pope as temporal ruler of a small but important sovereign community and the Pope as spiritual leader of a world-wide Church.

Some segments of American public opinion seem to stand alone in opposing such representation on the legal ground of lack of sovereign status. It is interesting to note that as recently as February 5, 1952, Bishop Otto Dibelius, of Berlin, Chairman of the Council of Evangelical Churches, which includes both East and West German representatives, protested against the character of a proposed diplomatic appointment of the Bonn Government to the Vatican. Significantly, Bishop Dibelius found no fault with the re-establishment of such diplomatic relations. He protested rather against the appointment of a Catholic to the post and appealed for the designation of a Protestant, "in accordance with tradition," on the grounds that such a designation would encourage mutual understanding and harmony among the faiths in Germany.[11] This point of view seems not to have been given consideration by Americans disturbed by President Truman's recent nomination of General Clark, an Episcopalian, to be ambassador to the State of Vatican City.

If the distinction between the temporal sovereignty of the Pope and his spiritual mission is a real distinction in law and in fact,

[11] *The New York Times,* Feb. 6, 1952.

as it is, it becomes difficult to understand how diplomatic representation to this small state constitutes a violation of the American principle of separation of church and state. It would be equally reasonable, if such were the case, to deny diplomatic relations to the United Kingdom because its nominal sovereign is the head of a Church, and to withdraw representation to Israel because that new state is the acknowledged center of World Judaism. This attitude, carried to its logical conclusion, would involve the United States in absurdities beyond description.

The wisdom of any proposed change in American foreign policy is a matter for legitimate discussion by all Americans. Such discussion is to be encouraged in the name of all our democratic ideals. Only intelligent discussion, based on fact and eschewing prejudice, can serve the interests of the nation. For these reasons it seems essential for Catholics and non-Catholics to acquaint themselves with the facts involved in the question of United States representation at the Vatican. Among the facts necessary for wise decision are those which clarify and explain the methods and procedures of Church government, and which distinguish that ecclesiastical government from the civil power of the Pope in the State of Vatican City. Professor Lynskey's chapters which follow should be of considerable value to those American citizens who prefer facts to prejudices as bases for the formulation of opinion.

JOHN J. MENG

February 8, 1952

Part I

THE FORM AND FUNCTIONS OF CHURCH GOVERNMENT

Chapter I

ESSENTIAL DISTINCTIONS

MANY Catholics, taking the government of the Church for granted, may wonder why it should be a subject for discussion. For persons not of the Catholic faith, the idea of a government of the Church often presents difficulties. For some of them, even the term "church" is a vague phrase; many people constantly misuse such terms as "hierarchy", "Vatican", and "ecclesiastical power." Some people shrink from an examination of ecclesiastical organization because they have a deistic concept of God, and think of religion as a private affair; or, identifying organization with power, they fear the Catholic Church because of its size, extent, and form. Others who regard all life as a struggle for personal dominance look on all Catholic clergy as imbued with the desire for power over others. These critics find it easier to generalize their prejudices than to examine the facts of the organization and functioning of the Church. Moreover, in church government as in other governments, there is much work of a discretionary character, concerning which officials must keep silent. Such silence lends mystery to the government. All things considered, it is surprising how many Catholics know only that the government of the Church is centered in some way around the Pope and the bishops. What the government of the Church is, what forces brought it into being, what powers it exercises, how it works, how it compares with other governments and other powers is to them a mystery, not a matter for examination.

One cannot approach the study of the form and functioning of government in the Catholic Church without indicating what the Church is, and what or whom it may be said to govern.

Even as her divine Founder had both a divine and a human nature, so, too, in His Church there are divine and human elements. This very claim constitutes a stumbling block for those who recognize only material values, who see all institutions in terms of purely human growth. The Church is several things at one and

the same time. It is a mystical body, a communion of souls in a spiritual union, on earth, in Purgatory, and in Heaven—the Church militant, suffering, and triumphant. It is a union of souls—bishops, priests, and people alike—in communion with God in the Holy Eucharist, in communion with the Holy Ghost in one faith. On earth, in human form, this body, this union, is a society of bishops, clergy, and laity entrusted by its Founder with responsibility for living holy personal lives and for teaching all men the truths by which they live.

The term "government", when used by the Church with reference to itself, has a restricted and specific theological meaning. It is a term confined in theological usage to the divinely-instituted monarchical and hierarchical structure. That portion of the administrative structure of the Church which is not of divine institution is not theologically comprised within the meaning of the term "government". The primacy of the Roman Pontiff, the Holy Father, descends in direct succession from Christ's designation of Peter as chief among the Apostles. Similarly the resident, or "monarchical", bishops are successors of the Apostles in the full meaning of that succession. Not all bishops are "monarchical" bishops, however. Titular bishops do not share in all the powers of "government" theologically considered. It will be seen that the vernacular use of the term "government" is wider than this restricted theological use. In the language of the political scientist "government" describes the whole mass of powers and agencies involved in ruling and administering a political entity. This distinction in the use of terms must be kept in mind, since the pages which follow use the term in the popular rather than the theological sense. The Church, although not a political entity, has a complex operational structure necessitated by its size and geographical distribution. The term "government" is herein applied to this entire structure, although theologically it may be correctly used only in a much more limited sense.

Some further distinctions with respect to the term "hierarchy" are likewise essential to a clear understanding of the government of the Church. When the average man speaks of the hierarchy, he usually means the members of the episcopal order or rank

without distinction. The Church gives to this term much more specific meanings. It applies it in two ways: 1) to the totality of power possessed by the Church; and 2) to the categories of persons who share in this power.

The power of the Church is twofold, consisting of the power of *order* and the power of *jurisdiction*. The power of order is "the power to sanctify the faithful by sacred rites." The power of jurisdiction is the power "to govern the faithful for the attainment of the supernatural end for which the Church is established." The teaching authority of the Church, sometimes referred to in the following pages as "the teaching power," pertains in a general way to the power of jurisdiction, although in some ways it is related also to the power of order. These two powers of order and of jurisdiction are intimately related, yet may be distinguished from each other. They are related because they are both divinely instituted for a supernatural end, because they both have the same *general* purpose—eternal salvation—and because one is necessary to the other—"jurisdiction presupposes order, and moderates its exercise."

The two powers are distinguished because their *immediate* origin is different, although both are divinely instituted. The power of order is conferred by the sacred rite of ordination; the power of jurisdiction is conferred on an individual by the legally authorized assignment to him of an ecclesiastical office to which the power of jurisdiction is attached. The sole exception to this latter rule is the Pope. He obtains primacy of jurisdiction by divine right. Still further, the powers of order and of jurisdiction may be distinguished by their *particular* ends, although again, their general end—eternal salvation—is the same. The particular end of the power of order is to sanctify; that of jurisdiction is to govern. Finally, they have different qualities. The power of order, "based on a supernatural mark or character, is irrevocable; jurisdiction, consisting in a moral relationship, is subject to change."

These two basic powers of the Church may be vested in distinct persons, although they are often found united. This means, therefore, that the Church recognizes two hierarchies: the hierarchy of order, and the hierarchy of jurisdiction, both divinely established.

In the hierarchy of order are bishops, priests, and ministers (or deacons). In the hierarchy of jurisdiction are the Supreme Pontiff and the subordinate episcopate (which includes resident bishops, but not titular bishops since they have no ordinary jurisdiction).[1]

There are many additional Church officers whose ranks or positions have been created as the result of ecclesiastical institution rather than of divine law. Appended to the hierarchy of order are two such grades, that of subdeacon, and that of minor clerics (ostiariat or doorkeeper, lecturer or reader, exorcist, and acolyte). Appended to the hierarchy of jurisdiction are various officers—titular bishops, diplomatic officials, superiors of many religious orders, and others. While not a part of the theologically-defined hierarchy of jurisdiction, these officials nevertheless exercise various degrees of delegated administrative authority in carrying on the work of the Church. Taken together with all the members of the hierarchy of jurisdiction proper, they might be said to constitute a third "hierarchy of administration."

[1]The above description of the hierarchical structure of the Church leans heavily on information to be found in Bouscaren and Ellis, *Canon Law,* 95-97.

Chapter II

THE BISHOP

It is principally by virtue of the right of order, conferred in Holy Orders, that the sacraments are administered and sacramentals blessed, that Mass is celebrated. It should be noted, however, that these functions are also exercised in virtue of the right of jurisdiction. In some cases the possession of the power of orders without the power of jurisdiction would result in the invalidity of the act performed. A validly ordained priest, for example, is, under normal circumstances, incapable of administering the Sacrament of Penance unless he possesses jurisdiction over the penitent. In the hierarchy of order, resident bishops possess complete power, and can reproduce it in others by the laying on of hands in ordination and in the consecration of other bishops.

Bishops are the successors of the Apostles and possess apostolic authority in their threefold character as priest, teacher, and pastor or ruler of the souls of the faithful. In their dioceses their jurisdiction is "ordinary", not delegated. It is the jurisdiction attached by Canon Law to the office they hold. The body of bishops as a whole, all of the resident bishops of the world, succeeds to the body of the Apostles in a collective sense. That is, bishops succeed individually to the Apostles in the essential right of sacrifice and of absolution, and in the integral power of ordaining; but the whole body of bishops succeeds collectively to the universal power of jurisdiction, under the supremacy of the Holy Father. In the hierarchy of order the Pope, as bishop of Rome, possesses no more sacramental power than any other bishop. In the hierarchy of jurisdiction, however, he is set above other bishops, singly and collectively considered, by virtue of the doctrine of the primacy of the See of Peter, accepted by all the faithful, and by the doctrine of papal infallibility, which declares his definition of dogma to be infallible, on those rare occasions when he speaks *ex cathedra* as Vicar of Christ.

How Bishops Are Named

The elevation of a priest to the rank and office of bishop, in established areas of the Church, is decided upon by the Consistorial Congregation; in the missionary areas, by the Congregation for the Propagation of the Faith, or on the recommendations of a superior general or Cardinal Protector of a religious order. In each case the approval of the Pope is required. The Consistorial Congregation continually receives lists of priests recommended for elevation to the episcopate. Each bishop is supposed to send in a list every two years, to keep the lists up to date.

Bishops have been nominated in various ways during the long history of the Church in the West. In modern times four different methods have been utilized. Free nomination was reserved to the Pope alone in all of Italy, in Mexico, for all vicariates apostolic *in partibus infidelium* and in France in 1906, after the Concordat of 1801 had been violated.[2] Presentation on the part of princes was allowed to some Catholic sovereigns or whenever it was accepted and agreed to by papal constitutions or by concordat. This method was used in Austria, Bavaria, Spain, Portugal, and in many of the South American states, but its use has diminished as princes have been dethroned, or concordats have lapsed. In some parts of Germany and Switzerland, the ancient method of election by cathedral chapters, subject to papal confirmation, was used.[3] When the United States was a missionary territory, priests of the archdiocese at provincial synods were asked to submit a list of nominees for episcopal rank and this list was enclosed by the archbishop with his own list when he sent the report of the synod to Rome. The list usually contained three names from which the Pope would choose one. This consultative system was also used, with minute differences, in Canada, England, Ireland, Belgium, and Holland. All of these four methods give opportunity for obtaining the views of more than one man in close relationship to the person under consideration.

[2]F. Bargilliat, *Praelectiones Juris Canonici* (Paris, 2 v., 1913), I, 434.
[3]J. B. Sägmuller, *Lehrbuch des Kirchenrechts* (Freiburg im Breisgau, 1904), 57.

Canon law sets down definite norms for the episcopacy. Although the Pope may dispense from one or more of these established qualifications for the good of the Universal Church, the regulations in force make it improbable that the Pope will name unsuitable candidates. The nominations recommended by bishops are checked by the Consistorial Congregation, sometimes during regular *ad limina* visits made by the bishops to Rome, sometimes by personal investigations made by nuncios.

Patriarchs of the Eastern Church are elected by their suffragan bishops, subject to the approval of the Pope. Bishops of the Eastern Church were formerly appointed from lists of three nominees submitted by synods of Eastern provinces,[4] but are now apparently nominated by bishops as in the Western Church.

In classifying the functions of Pope and bishops ecclesiastical authorities do not use the terms used by political theorists who classify governmental activity as fourfold: legislation, execution, adjudication and administration. In contrast, the Church separates the sacramental power of order and the spiritual power of teaching from the other powers which bishops exercise in developing and maintaining the Church in their dioceses. It classifies all such legislative, executive, judicial, and administrative powers under the one term "jurisdiction." This power of "jurisdiction" is in essence the pastoral power. The power of orders and of teaching, while distinct from the power of jurisdiction, are never exercised without a concomitant exercise of the pastoral (i.e., jurisdictional) power. Within his diocese each bishop has the fullness of jurisdiction for the fulfillment of his mission, but this jurisdiction is that of the Church as a whole, and his exercise of it is limited by the boundaries of his diocese, as set by ecclesiastical law. Within the diocese, subject to the existing law of the Church Universal, complete authority of legislation, policy making and enforcement, and judicial decision are his.[5] Within his diocese he may on occasion act as the delegate or representative of the Holy See on

[4]Bargilliat, *op. cit.*, I, 435.

[5]Various substantial limitations are in practice placed upon a bishop's authority by Canon Law. For example, in the matter of judicial decision, appeal can be made from his judgments. Furthermore, at any stage in judicial proceedings before a bishop, any of the faithful may refer his case immediately to the Holy See for judgment.

matters reserved to the Holy See, as where he may investigate the authenticity of spiritual phenomena, or the background of a candidate for beatification.

The Powers and Duties of a Bishop

An examination of the work of the bishops in accordance with the classification of powers made by the Church therefore indicates that they exercise the power of jurisdiction in the process of maintaining the powers of order and of teaching. It is by virtue of the power of order that they consecrate churches and altars, bless bells and the holy oils. By virtue of this same power of order, they or their delegates administer the Sacrament of Confirmation, by which those confirmed may gain in grace to live as defenders of the faith. In Confirmation bishops seal upon the brows of the confirmed the mark of their Christian character.

It is also by virtue of the power of order that bishops administer the Sacrament of Holy Orders to the men they have selected or accepted and trained for the priesthood. When they administer Holy Orders, in a governmental sense bishops are setting up an ecclesiastical staff which administers five other sacraments, Baptism, Penance, Holy Eucharist, Matrimony,[6] and Extreme Unction. They thus continue the life of the Church both as a communion and as an organized body, by continually adding to the ranks of the clergy, men marked for the service of God, men who possess the privilege of renewing the sacrifice of Christ upon His altars, and the obligation of serving the bishop in his diocese. In one sense the bishop may be said to act in furtherance of all three of his powers when he ordains. He transmits the spiritual character and powers of the priesthood under the power of order; but under the power of jurisdiction, he may be said to act as would the civil service commission of a secular government in the recruiting and training of personnel. Moreover, it is through the preaching and the catechetical work of the priests of the diocese that he carries out a large portion of his power of teaching.[7]

[6]The Sacrament of Matrimony is actually administered by the parties to the marriage, not by the priest.

[7]The regulations of Pius X in regard to catechizing and preaching, and the constitution of Benedict XV on preaching are contained in the new Code of Canon Law, published in 1918.

It is the aforementioned power of teaching that a bishop exercises when he passes upon or approves the publication of missals, prayer books, and other forms of religious reading matter. In using this power, he points out books, magazines, plays, cinematic or otherwise, or any form of teaching or indoctrination contrary to faith or dangerous to morals. Action has recently been taken under this power to condemn the presentation of erroneous principles as Catholic doctrine in the Archdiocese of Boston. The bishop, as priest and teacher, determines whether doctrine as taught by priests under his jurisdiction is sound, and whether their conduct is proper. Exercising his power of jurisdiction, he may take away from a priest the privilege of serving as one—of offering Mass, of hearing confessions, or of performing any ecclesiastical functions—if the priest's teaching has become heretical or his conduct flagrantly scandalous.

Under his teaching power the bishop exercises authority over convents and monasteries in his diocese, except those which may have been founded under the sole authority of the Holy See. Not every diocese has such exempt foundations. It is the bishop who invites religious orders to establish themselves in his diocese to undertake the works of teaching as well as the care of the sick and of the poor, the provision of retreat houses, or the labors of contemplation and prayer. On his own authority he supervises those which are under his charge; when he formally visits those under the sole authority of the Pope, he does so at the request and as a delegate of the Holy See.

These, then, are the powers of a bishop as priest and teacher. It is obvious, however, that the effective exercise of such powers necessitates the possession also of powers of a general governmental nature—those powers which the Church classifies as jurisdictional or pastoral. It is difficult, if not impossible, to separate the episcopal powers one from the other. In any case such separation would be inaccurate. The powers of order, of teaching, and of jurisdiction may be distinguished for purposes of study and understanding, but in their exercise they are inevitably interrelated.

It is by virtue of his power of jurisdiction that the bishop may establish religious foundations, provide courts for cases of a spir-

itual character, or apply ecclesiastical sanctions such as the censures of suspension, interdict, or even of excommunication. Furthermore, it is by virtue of the power of jurisdiction that a bishop controls diocesan revenues and expenditures, owns or controls real property, and deals with public officials on matters of common interest.

From the governmental point of view, it is hard to understand people who condemn the Church as worldly when it appears to prosper in material ways. Granted that there may be times when clergy or laity or both may be unduly interested in the things of this world, the church must have a material base for its spiritual mission. It is human and earthbound as well as divine, as was its Founder. For dioceses to be well run, bishops should possess the gifts of businessmen, either in themselves or on their staffs. Not all are so fortunate. In order to prepare men for ordination as priests, bishops must establish seminaries or share with other bishops in the support of seminaries. In order to establish seminaries, diocesan colleges, and hospitals, and also to provide for building parish churches and schools, bishops must own or control the use of land.[8] Before they can ordain priests there should be some prospect of funds to guarantee these priests their livelihood, though hardly an affluent one.

Furthermore, when inviting religious orders to serve in their dioceses, bishops should be able to assure them adequate residence facilities, schools, or hospital buildings, or the opportunity to raise funds for these mundane but necessary purposes. Foundations of religious orders have independent sources of income in fees and donations, and in assistance from other communities of the same order; but in many dioceses, particularly in the United States, some foundations of this type receive episcopal subsidies from the proceeds of the annual diocesan charities collection.

How the Diocese Supports Itself

Among the bishop's sources of revenue are annual parish contributions for cathedral and diocesan administrative expenses, for the diocesan seminary, and the proceeds of such other extraordinary

[8]The deeds of land owned by the Church within a diocese are all held in the name of the bishop. He cannot, however, dispose of such property at will.

collections as he may request. He or his delegates set the quotas which each parish is expected to contribute. In addition to the proceeds of such collections, a bishop receives a gift called a procuration when he makes a parochial visitation, and he both inherits property for the Church and receives, at times, considerable sums as pious donations. Such gifts, in North America at least, probably occur more frequently in large urban centers where wealth is concentrated than in predominantly rural areas. The bishop must render a financial accounting to the Holy See on his quinquennial visit to Rome, and on other occasions as well. He must, for example, submit to Rome every three years a detailed report on his seminary including an exact account of income, expenditures, and debts.[9] Most American bishops control parish finances through a system of trustees under episcopal control. Two laymen from each parish, recommended or appointed by the pastor, and approved by the bishop, are theoretically consulted on parish finances; they serve as members of a committee or board for this purpose. The other members of the board are the bishop, his vicar general, and the pastor of the parish. Under such a system, the laymen have little to say, and may even be informed after a decision is made, rather than consulted prior to it. Since their office is appointive rather than elective, trustees cannot be considered to represent the laity of the parish. If the parish wishes to create a co-operative, or establish a credit union, the bishop's approval must be asked, just as when a parish wishes to borrow for building purposes. Even as a state legislature usually decides the limits beyond which cities may not go into debt, so the bishop or the delegate decides the limits beyond which a parish may not borrow. The law of the Universal Church in turn determines the limits beyond which the bishop himself may not borrow or allow a parish to borrow.

In further fulfillment of their power of jurisdiction, bishops set up parishes and determine their boundaries.[10] Unless these parishes have historic rights under canon law due to the conditions of their

[9]Cf. *Acta Apostolicae Sedis,* XVII, 547 *seq.*: Decree of the Sacred Congregation of Seminaries.
[10]A. Mater, *L'Église Catholique* (Paris, 1906), 298.

establishment, bishops may divide or, more rarely, consolidate such parishes as are already in existence. An example of such parochial foundation is the ring of small parishes which Cardinal Suhard, as Archbishop of Paris, set up in the "red belt" of that city. Bishops also determine, under similar limitations of historical law, whether and when a parish shall build a church, school, rectory, or recreation hall. In some dioceses the bishop or the chancery office decides if and when a church may buy an organ, repair a roof, erect defenses against pigeons, install a new furnace or new pews. In other dioceses such decisions rest with the pastors of parishes, who must nevertheless report their expenditures to the diocesan office.

It is the bishops, however, who order special collections on specified Sundays for Peter's Pence, for the Catholic University of America at Washington, D. C., for diocesan charities, for foreign missions and foreign relief. Some bishops delegate a part of the financial work of the diocese to appointed officers, with varying degrees of discretion. In parts of Europe, where the Church has had a long history, and where it may have lost some of its major sources of income, the powers of bishops over money matters as well as their powers of appointment to benefices, are more circumscribed than in the United States, where bishops in the past have exercised greater powers of discretion accorded to them because of the missionary character of the country.

Probably the most important decisions a bishop may make under his power of jurisdiction are those which concern the assignment of priestly personnel to particular spheres of work. Not only are priests appointed as curates and eventually as pastors of parishes, but they may be assigned, with or without parochial duties, as chaplains or administrators in charitable or social work, or as members of diocesan boards of education, or as teachers in high schools, colleges, and seminaries. Their ordinaries may decide to send them for further education and special training to universities abroad or in their home lands. All Catholics know how parishes vary in character, due to differences of nationality, spirituality, education, age, occupation, taste, and wealth of the laity as well as to differences in the qualities and interests of their clergy.

While all are doing the work of God, not all are working with the same quality of spirit or even with similar means. Here bishops must exercise tact and sound judgment in making original appointments and in advancing their clergy.

The Bishop's Helpers

The Church has known nepotism in high quarters as an evil, and erects safeguards against it. For the purpose of securing impartiality in promotions to the rank of pastor, more and more bishops, especially in large dioceses, are using synodal examiners to survey the qualifications of clergy for such positions. Under this system, the clergy of the diocese, assembled in diocesan synod, elect six examiners who serve for ten years.[11] These examiners perform in addition other functions assigned to them under Canon Law.

Bishops are also assisted in their work by other officers, varying in number, whom they appoint, to form a small *curia* or "court" around the person of the bishop.

If the bishop becomes incapacitated, or unable to perform all of his duties personally, if the number of parishes in his diocese is unusually large, or if the bishop has extraordinary responsibilities which entail numerous public appearances and ceremonial functions, the Pope may appoint another bishop, with the title of a non-existent see, to help the bishop so burdened. This episcopal assistant is called an auxiliary bishop when he does not possess the right of succession and coadjutor bishop when he does.[12] The Archdiocese of Chicago has in 1952, one Cardinal, three auxiliary bishops, 2269 priests and 1,743,936 Catholics. The Archdiocese of New York had, in the same year, one Cardinal, four auxiliary bishops on special assignments, 2184 priests and 1,302,306 Catholics.[13]

Like the Pope in the Universal Church, the bishop is, in his own diocese, the single and chief lawgiver.[14] He acts through

[11] *The New Canon Law In Its Practical Aspects.* Papers reprinted from *The Ecclesiastical Review* (Philadelphia, 1918). 60.

[12] M. Emard, *Le Code de Droit Canonique* (Montreal, 1918), 59.

[13] *Official Catholic Directory, 1952,* 47, 156.

[14] T. Lincoln Bouscaren, S.J., and Adam C. Ellis, S.J., *Canon Law. A Text and Commentary* (Milwaukee, 1946), 174.

several channels in his legislative capacity. His pastoral letters to the diocesan churches or clergy deal with matters of general observance, such as the application of the regulations which prescribe the Lenten fast. Episcopal statutes are of two sorts, those enacted at the synod with the advice of the clergy of the diocese, and those issued with the cooperation of cathedral chapters or of diocesan consultors. The synod, which consists of all clergy in the diocese whether secular or regular, and of such administrators of diocesan foundations as are charged with the care of souls, meets at least once every ten years at the call of the bishop.[15] Here the diocesan clergy consult with the bishop on diocesan affairs, but the final judgment is his. In weighty matters, however, the bishop is bound to receive the advice of cathedral chapters or of diocesan consultors, and in some instances, defined by canon law, to follow the advice received.

Cathedral chapters exist chiefly in Europe, where they developed from the example set by St. Augustine, bishop of Hippo. He gathered the clergy of his city diocese into residence at the cathedral; there they followed a common canonical rule of life. Gradually the bishops and canons parted company, the canons withdrew into private residences, and in later years cathedral chapters became legal corporations often opposed to the policies of the bishops. Chapters may only be erected by the Pope. Where they now exist, they provide a more solemn form of worship in cathedral churches and choirs. But they have as their chief function the providing of counsel to the bishop, occupying the position filled in the United States by diocesan consultors.[16]

Bishops in the United States, and since 1899 in Latin America, use the system of appointing four to six diocesan consultors for three-year terms. These consultors sometimes, but not usually in the United States, live in the episcopal residence, and often perform administrative duties within the diocese.

For the performance of the executive, judicial, and administrative duties within their jurisdiction, bishops have the assistance of the officials of their curia, all of whom, except the synodal examiners, the bishops appoint. In the curia are the vicar general, an alter

[15]Emard, *op. cit.*, 60.
[16]Sägmuller, *op. cit.*, 266.

ego of the bishop, and the chancellor and his staff, who take charge of diocesan archives and keep the records. There are also judges, assessors, auditors, and other officials of the diocesan courts, who hear cases rising from problems of the confessional and cases rising out of marital relationships, and the defender of the marriage bond, whose duty it is to study the documents of all requests for annulment or for separation. Ordinarily, there is only one vicar general. He exercises specific powers granted to him under Canon Law, and relieves the bishop of such other tasks as the bishop does not reserve to himself. The vicar general loses his jurisdiction with the death, removal or suspension of the bishop.[17] The functions of the chancellor, on the other hand, continue under such circumstances until a successor is appointed. Neither the vicar general nor the chancellor is normally a bishop in his own right; but bishops may request that these officers be created auxiliary bishops.

It may seem that the life of a bishop is one of great independence, one of unrestricted power. He is not the elected representative of the laity, but the appointed representative of the Universal Church. There have been many periods in the history of the Church where bishops and archbishops have acted in a twofold capacity, as officers of the Empire as well as of the Church. At other times they have lived in the entourage of kings, or exercised the duties of royal officers. Their commission, the source of their authority, following upon their consecration and installation in office, is the injunction of Christ to His apostles: "Going therefore, teach ye all nations." In spite of their great independence within their dioceses, however, bishops are subject to certain obligations in canon law.

They are expected to remain in residence within their dioceses for nine or ten months out of every twelve.[18] They are bound to supervise the churches of the diocese, annually where possible, and to visit every foundation in the diocese every five years. As

[17]*Ibid.*, 371.

[18]*Codex Juris Canonici, Pie X Pontificis Maximi Iussu Digestus. Benedicti Papae XV auctoritate Promulgatus* (New York, 1918), canon 338.

delegates of the Holy See they visit foundations of religious orders when asked by Rome to do so.[19] They are bound to offer Mass for their people every Sunday and also on about twenty-eight feast days every year. Their attendance is required at general or oecumenical, national, and provincial councils or synods, where they possess the right to vote.[20]

The government of the Church has two levels, the bishoprics and the Papacy. The Papacy is self-renewing and the reservoir of all power. The body of bishops is likewise self-renewing, and acts as a means for continuing the priesthood, which is the core of the sacramental life of the Church. Bishops share the fullness of order with the Pope, and in oecumenical council share with him also jurisdiction over the whole Church, subject to his infallibility and supremacy of see. Within their home dioceses bishops have what political theorists call unitary power; authority flows from them to their delegates or subordinates. The laity takes little part in the government of the Church save, on occasion, to render the services of technical experts or as parochial consultants. But it is from the laity alone that priests can come, and rise to positions of power in the Church. The laity is the reservoir of vocations.

[19]Such requests are unusual.

[20]If a bishop is legitimately impeded from attending, he may be excused, but he must indicate the reason for his absence.

Chapter III

THE POPE

In the hierarchy of order the bishops constitute the top of the pyramid, with the bishop of Rome one of their number. In the hierarchy of jurisdiction, resident bishops constitute the base of the pyramid, the Pope its crown. In the hierarchy of administration, above the bishops, are archbishops or metropolitans, papal nuncios, and the Pope, whose authority is exercised in his name by a variety of central agencies. Here are cardinals, prelates, heads of religious orders, and numbers of lesser officials in the Roman Curia.

In the direct line of authority between bishops and the Pope, which soldiers and administrators call the line of command, are, apart from the Sacred Congregations, only two ranks, archbishops and nuncios. Archbishops or metropolitans are usually bishops of an important diocese within a province of the Church. Their position is largely honorary. Their chief responsibility as archbishops is that of calling and presiding over provincial synods where necessary; that is, calling into conference a number of bishops of dioceses in a province, together with their clergy, for consultative purposes. Provincial synods theoretically should be held at least once in twenty years, but they are not called regularly; in many parts of the world they have fallen into disuse. Informal conferences, and annual or biennial conferences of all the bishops in one country, national conferences presided over by the papal nuncio to that country, or by the apostolic delegate when there is no nuncio, are replacing such synods. Papal nuncios are the diplomatic representatives of the Pope to the head of the state, and as such, where the relations between church and state are governed by concordat, they are administrative superiors of the bishops of the country.

At the top of the administrative pyramid stands the Pope, the highest dignitary of all, whose titles, Pontifex Maximus, Supreme Pontiff, Holy Father, indicate the primacy of his see, the *Sedes*

Apostolica or Holy See. Outside of his primacy of jurisdiction and of honor, the Pope has further responsibilities that proceed from his connection with lesser areas of church organization. He has the honorary title of Patriarch of the West. He is territorial primate of the provinces of Italy; metropolitan of the territory between Pisa and Capua, over which he exercises the usual authority of an archbishop; and bishop of the city of Rome. Up to the seizure of the city of Rome by the Italian monarchy in 1870, the Pope was likewise ruler of the territory called the Papal States. Today he is the acknowledged sovereign of the State of Vatican City.

The Powers and Duties of the Pope

The powers and rights which the Holy Father exercises as head of the unified Church proceed from the will of Christ Who designated him primate of the bishops of the Catholic world. Equal to all other bishops in his power as priest, he has superior administrative authority as teacher and shepherd or ruler. In the hierarchy of jurisdiction he has supreme legislative, executive, and judicial powers. Of these the legislative is the greatest and most frequently used. The Papacy's coercive or enforcement power does not consist of the use of force or confinement to jail or prison, as in the state, but consists rather of censures and deprivations which exclude a Catholic in greater or less degree from the rights and privileges of church membership, such as the reception of sacraments, until the offense has been adjudged and remedied.[21] Since papal sovereignty is thus essentially spiritual, the legislative power has assumed larger proportionate importance in ecclesiastical government and ecclesiastical rulings are obeyed by force of conscience. Except for those matters which are initiated by the Pope, and for documents issued to the civil world by the Popes as spokesmen of the Church, this legislation takes the form of decisions of the Roman curial bodies which the Pope has tacitly or expressly sanctioned. The basic law of the Church is the Code of Canon Law. This Code is a fully developed and highly

[21]Stanislaus Woywod, O.F.M., "Ecclesiastical Censures in the New Code," in *The New Canon Law In Its Practical Aspects,* 82.

detailed legal system concerned with the whole life of the Church; it has developed over many centuries, and has been frequently revised. The most recent and most comprehensive revision took place in 1917. A special papal commission concerns itself solely with the task of interpretation of the Code in its application to specific problems of Church government and administration.

The Pope is a teacher of morals and a critic of customs as well as a source of ecclesiastical discipline. His legislative competence reaches to the far ends of the world on questions which concern the Church as a whole rather than the particular affairs of a bishopric. As general legislator he may: a) issue decretals *ex cathedra* on belief; b) defend doctrine against heresies; c) call, preside over, and adjourn general (oecumenical) councils; d) test decrees of particular synods; e) introduce, alter, or suppress general or particular Church laws on any subject; f) regulate holy days or Church feasts; g) define fast days and periods of fasting; h) introduce new rites and abrogate old ones. The introduction of the devotions of the first Friday and the first Saturday of the month, as well as the addition of prayers for the conversion of Russia at the end of Mass are examples of his power of legislation over rites and *cultus*. The Pope's power over rites does not grant him authority to create a new Sacrament nor to abrogate any existing Sacrament.

Like the bishops, the Pope may pass upon and approve religious publications, or censor harmful literature, with this difference, that the approval or ban of the Holy See, being announced to the Universal Church, has a much wider effect than that of a bishop.

The largest part of the Pope's executive work centers about two chief concerns: the establishment and extension of the Church throughout the world, and the maintenance of religious worship in a pure and unadulterated form. In his executive capacity he may: a) erect, administer, alter, or suppress bishoprics; b) appoint bishops, usually after consultation in accordance with Canon Law; c) assign a coadjutor or auxiliary bishop to one who is incapacitated or whose duties are too heavy; d) approve or sanction, or suppress, religious orders; e) administer the temporal goods of ecclesiastical foundations, especially in the diocese of Rome; f)

erect and govern missions and churches which are dependent exclusively on the Holy See; g) found and legislate for papal universities such as the Catholic University of America; h) grant indulgences; i) beatify or canonize saints; j) issue liturgical books; k) organize and enforce the *cultus* of the Church.

Judicially, all the spiritual favors of the Church are within the Pope's control. The sanctions which the Church applies in enforcing its laws are often quasi-judicial, decided upon as a result of an investigation by an ecclesiastical court. Acting in his judicial capacity, the Pope may: a) act as a court of first instance or of appeal, especially in graver cases; b) organize courts for hearing such cases; c) organize courts or appoint synodal judges for the diocese of Rome; d) establish rules of judicial procedure; e) establish censures or punishments; f) absolve from any punishment for sin, especially for sins reserved to the Holy See; g) relax vows and oaths when there is a just cause for doing so, thus permitting members of religious congregations to return to secular life; h) give matrimonial dispensations from any impediment instituted by the Church.

The Popes have also acted as arbitrators in the settlement of political questions, in response to the requests of governments.

Supreme judge himself, and supreme lawgiver within the Church, the Pope can be judged by no man, and there is no appeal from his decisions. In this respect his position corresponds to that of all sovereigns, who cannot be brought into court. But both Pope and bishops, as members of the communion and the community of the Church, are also subject to the moral law and discipline of the Church. As penitents, they have confessors. Certain forms of excommunication are reserved to the Papacy, as are the graver cases of episcopal misbehavior, which incur the penalty of suspension.

The government of the Holy See on the universal level parallels that of the bishop in his diocese and is comparable to that of national governments. All power, legislative, executive, judicial, and administrative, is united in the Pope under the political principle known as union of powers. He has no substitute, such as a vice president, nor is there hereditary succession to his office, as in monarchies; but he has relatively close at hand a body of advisors,

originally chosen as consultants to the Papacy from the dioceses around Rome, the larger parishes in the Holy City, and the administrators of its charities. These are the cardinals, collectively called the College of Cardinals, which acts as the means of renewing the Papacy. Its membership fluctuates in number, and does not exceed seventy.[22]

The College of Cardinals

After the death of a Pope, his chamberlain, the Cardinal Camerlengo, takes over the administration of the Holy See for the interregnum, while the obligation of choosing the successor to the Papacy falls on the Sacred College of Cardinals. In some ways the duties of cardinals resemble those of cabinet ministers in England or in the United States, but in this elective function they are unique. They meet as a body in conclave to elect a new Pope. They exercise the consultative powers common to cabinet positions when the Pope calls them into private consistory to examine the qualifications of persons for canonization as saints, or to consider the nomination of bishops to vacant sees.[23] However, like the President of the United States with his cabinet, the Pope need not accept their advice. In public consistories where cardinals are created and saints proclaimed, the presence of cardinals lends solemnity to the ceremonies. Individually, the cardinals who are continuously present in Rome act as administrative heads and members of administrative committees of the papal curia. Here they are assisted by consultors and other aides, prelates who have various ranks including those of protonotaries and chamberlains, monsignori and various advocates, notaries, expediters, and other expert consultants, some of them laymen, called curials.

The Papal Staff

The Papal Curia proper, in its narrow sense, included in 1951, twelve Sacred Congregations, three tribunals or courts, three offices and secretariates, on all of which cardinals, monsignori, and curials serve.

[22]Sixtus V restricted the College to this number by the Bull *Postquam verus*, of December 3, 1586.

[23]*Codex Juris Canonici*, canon 239. An excellent historical summary of the growth of the consistory can be found in A. Monin, *De Curia Romana* (Louvain, 1912), 7.

Like civil governments, the government of the Church can be classified under four functions, if administrative agencies such as independent or regulatory commissions are separated from the executive branch. Above all four stands the Pope as head of the Church—chief lawmaker, executive, and judge. Although doctrinal statements and determination of policy are the most important work of the Papacy, the most extensive work, quantitatively speaking, is probably done by the administrative branch.

The courts concern themselves primarily with penitential appeals in the Sacred Poenitentiaria, primarily with appeals on sacramental judgments in the Holy Roman Rota, and primarily with decisions as to whether an appeal may be made, in the Signatura.[24]

The administrative work, narrowly considered, is performed by several varieties of administrative agencies called Offices, Secretariates, Commissions and Congregations. There are no departments, cabinet meetings, nor any individual acting as a prime minister, but the Secretary of State may sit *ex officio* with all of the Congregations, and thus acts as a sort of co-ordinator, and as liaison officer with the Pope, as does a prime minister with a civil sovereign.

Papal Offices today are primarily dispatching agencies for various types of papal documents. At one time, however, they were quite powerful. The Cancellaria or chancery kept the papal archives; the Camera administered the temporal affairs of the Holy See; and the Dataria took charge of appointments to those churches and benefices which were directly under the Pope. The head of the Camera, the Cardinal Camerlengo, is chief administrator of the Holy See for the few weeks that the see may be vacant.

Commissions are small bodies of specialists with a definite and limited purpose, which go out of existence when their work is done. Under some circumstances, they are attached as subordinate bodies to one or more of the Sacred Congregations. In 1951 there were eleven commissions. Four of them, those for Biblical Studies, for Emendation of the Vulgate, for Sacred Archeology, and for the Care of Historic and Artistic Monuments, were interested in

[24]The titles given above are the official names for these courts.

research.[25] Others had entrusted to them a variety of functions in Italy and in the world at large, including the interpretation of the Code of Canon Law, the preparation of a code of Oriental Canon Law, the care of sacred art in Italy, and of the papal sanctuary in Pompeii, maintenance of the faith in the Diocese of Rome, the preparation of motion pictures designed to illustrate the truths of doctrine, and supervision of the heraldry of the Pontifical Court.[26]

The Secretariates are not, as in civil governments, departments, but like the secretaries of state in civil governments, they perform clerical and epistolary duties. One for Latin Letters and one for Briefs to Princes have recently been combined into one, with their names also combined. The other one, the Secretariate of State, is like the foreign office of a civil government.

The Sacred Congregations

In contrast with the papal commissions are the Sacred Congregations. In structure they resemble those regulatory agencies which in the government of the United States are called independent commissions, but their work is administrative rather than regulatory. Each congregation works as a group under the chairmanship of a cardinal prefect, not under a single administrator; each has several expert advisers in specialized fields of study or of administration among its consultors; its full meeting is called a *congressus*. Some of the congregations are permanent, others temporary, although they are not often changed. The identity of the more permanent congregations is distinctly traceable to the original establishment (1587) by Sixtus V (1585-1590).[27] Reorganization is, as in any government, a recurring necessity; occasionally whole subdivisions are transferred, with their work, and usually with their personnel, from one congregation to another.

[25]The Vatican Archives were opened for the use of students by Pope Leo XIII in 1883. Cf. G. P. Fabre, *Le Gouvernement de l'Église*: Vol. I, *Le Vatican* (Paris, 1910), 264 ff.

[26]*Annuario Pontificio, 1951,* 889-895.

[27]The system of Roman congregations may be said to have begun with the institution of the Inquisition by Pope Paul III in 1542; the Bull *Immensa aeterna Dei,* of Sixtus V, brought unity into the system. Cf. Monin, *op. cit.,* 9.

The most thoroughgoing recent reorganization was that of Pius X, in his constitution *Sapienti Consilio* (1908).[28]

Each congregation considers the problems which rise within a special area of ecclesiastical jurisdiction, such as sacraments, ceremonies, institutions of higher learning, and seminaries. The Sacred Congregation of Rites, among other matters, prepares for the canonization of saints. One congregation provides for the maintenance and repair of St. Peter's Basilica. The Sacred Congregation of the Council governs all matters relative to the holding and recognition of councils and episcopal conferences, regulates the discipline of the secular clergy and of the laity, inspects the activities of the dioceses and of the parish. In this process it examines the qualifications of priests nominated for appointment as bishops, although they are appointed by the Consistorial Congregation. It also looks over the reports made by bishops on their *ad limina* visits to Rome. The Congregation of the Consistory erects new dioceses and chapters, bestows the pallium on archbishops and prepares the agenda for consistorial meetings. It also decides, if controversy arises over jurisdiction, which congregation shall exercise authority. The Sacred Congregation for the Propagation of the Faith (frequently called "Propaganda") exercises extensive jurisdiction in the areas designated as missionary territory. In these areas its authority excludes that of most other agencies of papal administration, which govern the established areas of the Church. As a result, the Sacred Congregation de Propaganda Fide is so important that its cardinal prefect is frequently referred to as the "red Pope". Similarly, so important was the Society of Jesus in defending and spreading the faith that its head is sometimes referred to as the "black Pope". There is a sacred congregation especially created to administer to the needs of religious orders alone. In addition, heads of the major religious orders and some other religious societies sit *ex officio* as consultants with one or another congregation.

Most of the activity of these congregations concerns matters

[28]Michael Martin, S.J., *The Roman Curia As It Now Exists* (New York, 1913), 12. The present day organization of the Roman Curia is regulated by the Code of Canon Law. In that Code the main elements of Pius X's reorganization are stabilized.

spiritual rather than secular. Three of them, because of their central importance, have the Pope himself as prefect, although he seldom attends meetings. One of these three is the Congregation of the Consistory; another is the Congregation of the Holy Office, which is the first one in order of time and the nearest of all congregations to the Pope's personal authority. It decides, among other matters, questions of faith or heresy, sacramental questions, and dispensations from the impediment of *cultus* in some mixed marriages. It was this congregation which recently declared that in matrimonial cases the invalidity of baptisms conferred in certain Protestant sects was not to be presumed.[29] Two other congregations, that of the Oriental Church and that of Extraordinary Ecclesiastical Affairs, together with the Secretary of State, have duties which concern the non-Roman rites and relations with civil states.

The foregoing is a brief outline of the government of the Catholic Church, a body of bishops who in their collective capacity share the authority of the Apostles under the primacy of Peter. Each bishop wields a large amount of autonomous authority in his own diocese; a line of command rises above bishops to the Bishop of Rome, the Vicar of Christ. Under him, exercising ordinary and vicarious power,[30] stands an array of administrative agencies in a curia or court.

[29]The Holy Office issued this declaration on December 28, 1949 (*Acta Apostolicae Sedis*, XVI, 650).

[30]The distinction between "ordinary" and "vicarious" power is of considerable importance in ecclesiastical law. "Ordinary power" is the power attached to an office; "vicarious power" is power exercised in the name of the Pope.

Part II

LOCAL, NATIONAL, AND SUPRA-NATIONAL ELEMENTS IN CHURCH GOVERNMENT

Chapter IV

LOCAL ELEMENTS

An examination of the geographical units in the Catholic Church manifests immediately its likeness, not to the structure of the modern state, but to that of the Roman Empire. The customary governmental units of the Empire were the cities or military outposts, the provinces, and the imperial city of Rome. Similarly, the customary units of the Church are the dioceses, the provinces, and the Holy See. The English word "city" was given to a community which was the seat of a bishop.

Roman civilization was preserved to the world, after the fall of Rome, by the Church, which succeeded to part of the temporal rule of Rome. During the age of feudal obligations, petty rulers, and turbulent quarrels, Papacy and Empire represented religious and secular concepts of unity and authority, sometimes in agreement, more often in conflict. The Church developed political as well as spiritual authority. As a result of the Council of Trent during the Counter Reformation, the reorganized Church emerged with its forms of administration very largely as they are today; it had yet to meet the challenge of the new political form, the national state. The opening of the Far East to trade, and of the New World to exploration and settlement, brought to the Church again the renewed command of its Founder: "Going therefore, teach ye all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost." Areas newly discovered in the fifteenth century were lands in which Christ was unknown; some of them were relatively unpopulated, others already politically mature, with ideas of God or gods that conflicted with Christianity. There the Church felt its way, adapting its forms to circumstances, moving from the familiar to the alien, from the temporary to the permanent, from diversity toward unity, but without destroying diversity. There, instead of setting up government by dioceses under the Consistorial Congregation, the Church called to its aid two other institutions, the Sacred Congregation for the Propagation of the Faith, and the missionary religious orders, most of

them subordinate to the Congregation for Bishops and Regulars.[1] Where formal order could be developed with relative ease, jurisdiction over the Church in new lands was given to the Propaganda Congregation, as it was in North America. This congregation was founded in 1622 by Pope Gregory XV.

In South America, where the rulers of colonial powers were Catholic princes who already had diplomatic ties with the Papacy, the Church consulted with the civil rulers about the erection of dioceses, universities, and other institutions. This consultation took place through the Congregation on Extraordinary Ecclesiastical Affairs. The missions in Latin America were transferred to the Congregation for the Propagation of the Faith in the twentieth century, some time after the Spanish government had lost all control of South American lands.

In Asia and Africa, where native peoples and customs made immediate organization almost impossible, particular areas were assigned to different religious orders. For example, today, under this principle, the Marist Fathers, under the direction of Propaganda, have full jurisdiction over Oceania, the islands of the South Pacific. As a result of such division of jurisdiction, there was competition of a kind among the orders, but not competition within their own jurisdiction. The foremost examples of the flexibility and diversity of the Church may be found in its ability to adapt itself to the human complexities of these missionary regions.

What Is "Mission Territory"?

Missionary territory, as the Church designates it, does not consist merely of heathen lands where Christianity is unknown or rejected, nor of pagan areas of religious indifference. It does include parts of the world where there are Catholic churches, even bishoprics and bishops, but where, for one reason or another, the hierarchy is not well developed or firmly established. It also has included countries where the Church has come to fruition,

[1]Since the reorganization of the Curia by Pope Pius X in 1908, most missionary religious orders have been placed under the supervision of the Sacred Congregation of Religious which was established in that year.

only to have its hierarchy destroyed or sent into exile. For example, before the reign of Henry VIII, the Church had a fully established hierarchy in Great Britain, with an English member of the College of Cardinals. In the English Reformation, the Church lost its parishes as well as its cathedral churches. Its ecclesiastical lands reverted to the king and his favorites or to the bishops who renounced Rome and helped the monarch to found a national episcopal church. After almost a century of ups and downs, and hundreds of martyrdoms, Catholic priests were outlawed. In 1688, a Vicariate Apostolic was created for the district of London, and the Catholic Church in England remained a Vicariate Apostolic until Pope Pius IX restored the English hierarchy in 1850. At the time he erected one province with twelve suffragan sees, and appointed Nicholas Patrick Wiseman as resident Cardinal Archbishop of Westminster.

In parts of Germany, under the principle of "*Cuius regio eius religio*," Catholic churches and other foundations were turned during the Reformation into Protestant sectarian institutions or state institutions. The Catholic Church never regained jurisdiction over most of them. Similar confiscation of ecclesiastical lands and other properties, including houses of worship, took place under antireligious or anticlerical governments in France, Spain, and Italy, but these lands did not become missionary territory. The dioceses of France were twice reorganized during and after the Napoleonic period. Almost the first effort of a highly nationalistic or otherwise doctrinaire government is to disrupt the priesthood and the hierarchy as a whole, to drive a wedge of suspicion or hate between clergy and hierarchy on the one side, and laity on the other, on the principle: "Strike at the shepherd and the flock will scatter." So Adolf Hitler and the National Socialist party, like Bismarck before them, attacked German clergy and bishops with false propaganda, confiscation of religious properties, arrest and imprisonment of officers of the Church.

In several of the "satellite" states of the Soviet Union, where predominantly Catholic populations have been brought under Communist control, strong efforts are now being made to eliminate the Catholic Church from the life of the people by pressure on the

bishops and clergy, especially in Yugoslavia, Poland, Czechoslovakia, Hungary and Romania, within the Soviet Union itself, in the Ukraine, in the annexed Baltic countries, and in Transylvania. Two of the chief contemporary purposes are to gain control over the choice of bishops and to limit the control of bishops over clergy. In these Communist-controlled areas, Catholic authorities in Yugoslavia and Bulgaria were under the Congregation for the Propagation of the Faith; the others were under the Consistorial Congregation. The Vatican *Yearbook* for 1950 listed thirty-five residential archbishops, bishops, or apostolic vicars as either deported or exiled, and Cardinal Mindzenty as in prison[2]

The missionary territories now existing include among others, Albania, the Antilles, Australia, Gibraltar, Greece, India, Iran, China, Japan, New Zealand, Palestine, and Turkey. Great Britain, Holland, Ireland, Scotland, Newfoundland, Luxembourg, Canada, and the United States, all missionary territory in the nineteenth century, are so no longer. Together they were transferred from Propaganda to the Congregations of the established Church, during reorganization of the Roman Curia by Pope Pius X in 1908.[3]

How Missions Happen

One of the most fascinating aspects of the Catholic Church is its growth and spread to foreign lands. A solitary missionary making an irregular circuit of an extensive mission, a few Catholics meeting him at an appointed time and place, or a small band of intrepid souls dependent on charity from their homeland, lay the foundations out of which grow teeming dioceses and noble cathedrals. Missionary activity was enjoined upon the Church from the moment of its foundation. The first evidences of the graces bestowed by the Holy Ghost on the trembling Apostles were the courage that sent them out from the Upper Room at Jerusalem to the hostile multitudes in the streets of the city, and the gift of tongues by which their mission was made manifest to their first hearers. Out on the roads of the world to Asia, Africa, and Europe went the Apostles, under the Roman peace, to "teach all nations."

[2]*New York Times,* January 19, 1950.
[3]Bargilliat, *op. cit.,* 368.

Within the lifetimes of Saints Peter and Paul, the Church was established at Rome. From that day to this, the Catholic Church has been distinctly a missionary institution as well as a body centralized at Rome. Even when schisms divided the Church, when the Popes themselves fled from their central see, missionary spirit has flourished somewhere in the world. In general, new missions have sprung from one of three sources: (1) the direct command of the Pope; (2) the zeal and dedication of religious orders, many of which were founded in the nineteenth century; (3) the generosity of zealous bishops who have contributed priests and funds to the conversion of other lands.

Missionary zeal has not been confined to the see of Rome or to the Popes. The depth of penetration of Catholic conversion and the strength of the faith could almost be measured in any country by the growth of support for missions. Hardly had the monastic orders come into being before their seminaries kindled with apostolic yearning toward the mission fields. Popes and bishops turned to them for assistance even as they also sent secular priests as temporary help to new establishments. So Pope St. Celestine I sent Saint Patrick to Ireland in the fifth century. More than a hundred and fifty years later Pope St. Gregory, a Benedictine monk, sent the Benedictine St. Augustine to reconvert England to the faith it had first received when it was under the military administration of Rome.

Foremost in mission work for centuries immediately following were the great Benedictine foundations and the separate Irish monasteries that grew out of Saint Columba's famous monastery on the island of Iona, founded 563. Iona became responsible for the Christianization of Scotland and parts of Northern England. Saint Columban, from a different Irish background than that of Columba, led a party of twelve into Gaul. He founded one abbey at Bobbia, near Pavia, Italy, and another at Luxeuil, in Burgundy, which sent a steady stream of missionaries into German Bavaria. Saint Kilian of Iona became the "Apostole of Franconia." Saint Wilibord, a Benedictine of York, began the conversion of the Frisians, directly across the North Sea, late in the seventh century. Boniface, originally named Winfrid, an English Benedictine, is

known as the Apostle of Germany because of his missionary labors in Frisia, Saxony, Franconia, Thuringia, and Bavaria, and because of the dioceses that stood as monuments to his administrative ability.

The brothers, Saint Cyril and Saint Methodius of Thessalonica, in the ninth century answered a request from the Crimea for Christian missionaries. Their feast day as Apostles of the Slavs is celebrated in the Roman liturgy all over the world. Late in the sixteenth century Pope Gregory XIII assigned the Far East as a missionary field exclusively to Jesuits, but after the temporary suppression of that order, missionary responsibilities in the Far East were distributed otherwise. Saint Francis Xavier, the Spanish Jesuit who converted great numbers in the Far East, is called the Apostle of the Indies and is patron saint of all missions. The Holy Ghost fathers and the French Society for Foreign Missions took the lead in extensive labors in Africa during the nineteenth century. Today the Church is turning to the Catholics of the United States for the services of missionary priests.

Missions in the New World

With the discovery of the New World, Franciscans, Dominicans, and Jesuits came with the Spaniards to Cuba, South America, Mexico, and parts of North America. The erection of dioceses in the Spanish colonies was the first establishment of the ecclesiastical jurisdiction of Rome over territory that later became the United States. The beginning of English Catholic penetration of North America came in 1634 with the arrival of two Jesuit fathers in Maryland with twenty gentlemen and from two hundred to three hundred laboring men, most of them Protestant, in the *Ark and the Dove*. The early Maryland missionaries, all of them Jesuits, depended exclusively on the jurisdiction of their superior general.[4] The first French establishment of the Catholic church in America came long after the first solitary missionaries had gone out with the *voyageurs* to the Indian tribes. This establishment was the Vicariate Apostolic of Canada, erected in 1658, which was followed

[4]Letter of Father Henry Harrison, S.J., to Father Francis Porter, S.J., requoted from an article in the *Dublin Review* by Rev. Thomas Hughes, S.J., in E. H. Burton, *Life and Times of Archbishop Challoner* (London, 1919), 124.

sixteen years later by the diocese of Quebec. The vicariate apostolic was founded only thirty-six years after the foundation of the Congregation for the Propagation of the Faith. The diocese of Quebec, at the time of its institution, covered all of the territory east and west of the Mississippi that was not under the political control of England or Spain.

Before considering how the lines of ecclesiastical jurisdiction are adjusted to follow those of political rule, it may be well to recount the processes and the forms of church government that are used in opening and developing a mission field. The first step is usually the departure of a few selected missionaries for a new location, which may or may not have been looked over by the head of a religious order, a bishop, or by a person delegated by the Holy See. In any event, some authority in Rome will have approved the general idea before the work is undertaken. A few Catholics living far from home may ask a bishop of their homeland, a religious order, or the Congregation of Propaganda for the services of a priest. In the past, such requests have been made by kings, but the heads of modern states, while they may be willing to have their countries and colonies profit from the work of missionaries, are much less willing to sponsor missions openly. Into areas that have no episcopal administrator, a few missionaries may be sent by the Propaganda Congregation, or by a bishop in touch with this congregation, or by a religious order whose superior general usually has not the rank of a bishop, to begin work in one or more small stations. These temporary stations are called missions, and should be distinguished from missions *sui juris,* which are likewise small foundations but whose work is of an unique or extraordinary character. Missions *sui juris* are few in number in the Universal Church. The *Annuario Pontificio* for 1951 lists twelve.[5] Simple missions are, however, numerous.

Governing the Missions

As soon as a mission, by the number of its baptisms and the reception of other sacraments, gives evidence that the Church has a solid foundation in the people, a prefecture apostolic is

[5]See pp. 731-733.

created. This is the first step in canonical organization, a unit of administration superior to the mission, headed by a prelate with the title of prefect apostolic, who is usually not a bishop, but who may exercise wide powers. In 1918 *Orbis Catholicus* listed seventy apostolic prefectures, scattered over the six continents.[6] In 1937 there were 121, of which all but two were directly under Propaganda.[7] In 1951 there were 130.[8] In the meantime many prefectures had been elevated to higher rank and new ones erected.

The second step of canonical organization is a vicariate apostolic. The vicar apostolic who administers such an area is a titular bishop. He has approximately the same powers as a diocesan bishop. He acts not on his own authority, however, but in the name of and with the authority of the Holy See. Although he has no diocese, because the limits of his jurisdiction are still temporary, he is normally invited to oecumenical councils, and if so invited, he has the right to vote. In 1918 there were 175 vicariates apostolic and six vicars of the Oriental rites;[9] in 1937 there were 278 vicariates, all but one under Propaganda, and ten Eastern ordinariates, special bishoprics for Eastern rites, all ten subject not to Propaganda but to the Congregation of the Oriental Church.[10] In 1951, there were 251 vicariates and fifteen Oriental prelacies.[11] How frequently and steadily these units of administration are created or raised in rank may be judged from the following facts. Altogether Pope Pius XI created twenty-four missions and districts *sui juris* and seventy- three apostolic prefectures. He raised forty-six prefectures, twenty of which he had founded, to apostolic vicariates, and created thirty-eight other vicariates apostolic, a total of 181 units. During his reign he elevated twenty-six Chinese and Japanese clerics to the rank of bishop.[12] From his accession to the papal throne in 1939, to January 1, 1951, Pope Pius XII erected or elevated to their present status 360 ecclesiastical units

[6]*Orbis Catholicus, 1918.*
[7]*Ibid., 1938.*
[8]*Annuario Pontificio, 1951,* 703-729.
[9]*Orbis Catholicus, 1918.*
[10]*Ibid., 1938.*
[11]*Annuario Pontificio, 1951,* 1181.
[12]*New International Yearbook, 1939* (New York, London, 1940), 624.

of administration.[13] When missionary territory is finally transferred from Propaganda to the jurisdiction of the Consistorial Congregation and of the rest of the Curia, the Congregation for the Propagation of the Faith retains authority over any untransferred vicariates in the territory.

Vicars and prefects apostolic have authority very similar to that of a bishop. They are the true pastors of souls committed to their care. They can enact local ecclesiastical laws. They have judicial and coercive power within the territory assigned to them. Even those who are not consecrated bishops have powers to give all episcopal blessings except the pontifical benediction, to consecrate chalices, patens, and altars, and to grant indulgences for a limited number of days. Like diocesan bishops they must stay in residence and make visitations within their jurisdiction. Annual reports on their work, and periodic visits to Rome must also be made. Apostolic vicars have power to regulate the missions of religious orders within their territory. The vicar apostolic may be and often is a member of a religious order.

Training a native clergy to take over the care of souls from foreign priests is one of a vicar's first concerns. When vicariates apostolic of a given area are able to support the work and ceremonial functions of a bishop, when boundaries can be made definite, or when local conditions make permanent status desirable, the vicariates concerned are raised to diocesan rank. Usually such a diocese remains under Propaganda. The bishop receives the documents of the diocese as of right in its name and in his own. After some time, when the native clergy have demonstrated their faith and administrative ability, native priests will be raised to the mission hierarchy. Pope Pius XII consecrated and appointed the first Negro bishop, the Most Reverend Joseph Kiwanuka, now bishop of Masaka in Uganda, who recently was permitted to ordain to the priesthood four white Canadian members of the Holy Ghost Fathers, called the "White Fathers," for service in Africa. Within a few days of issuing his first encyclical letter, which condemned statism, Pope Pius XII emphasized the unity, universality, and diversity of the Catholic Church by consecrating

[13] *Annuario Pontificio, 1951,* 1182-1186.

and sending out twelve new bishops of widely varying nationalities into the mission fields. Among them were British Indians, Chinese, and an African Negro returning to their homelands, French, Danish, Irish, Canadian, Belgian, and American bishops going to Denmark in Europe and to Asia, Africa, and Indonesia. Among them was Thomas Tien who seven years later in 1946 was appointed Cardinal Archbishop of Peiping. The first Chinese cardinal, Cardinal Tien, is now exiled from China and residing in the United States.

Both the history of missions and the process by which the single mission grows into a diocese reveal how truly one and universal the Church is. The faith spreads from the strong to the weak, from the rich in faith to the poor in faith, but it spreads in many different ways. In the Western Hemisphere, its missionaries moved into relatively unsettled lands and began to teach the Indians before any strong political authority was established in these continents. Indian missions are still functioning and the home apostolate to American Negroes is growing. In the Western Hemisphere, too, the lines of Church jurisdiction at first followed the nationality of the settlers. Thus, in the United States, several lines of ecclesiastical jurisdiction met and merged into one. The merging lines included the jurisdiction of English Jesuits in and around Maryland, that of the Spanish hierarchy by way of Cuban and later of Mexican dioceses, and that of the French in the diocese of Quebec. With the establishment of the prefecture apostolic of the United States under John Carroll in 1784, and with the elevation of the prefecture into the diocese of Baltimore in 1789, the leadership of the Catholic Church in the United States was entrusted to Americans.[14]

In the Far East

Similar developments have taken place in the Far East and in India, but much more slowly, so that this part of the world is still *in partibus infidelium* under the Congregation for the Propagation of the Faith; but missionaries of several orders are now working

[14]John Carroll had first been appointed prefect apostolic in 1784. Cf. Burton, *Life and Times of Archbishop Challoner,* 138, 144.

throughout the Far East. Reasons for the comparatively slow development of missions in Asia are neither abstruse nor far to seek. There Catholic missionaries came into thickly populated countries of old civilization and of fixed habits of thought, strong native cultural and ethical systems. Christian missionaries there met an established pagan priesthood with religious ideas that were opposed to Christian concepts. There, also, the missionaries were all too soon associated in the minds of the native peoples with the businessmen and governments which followed where they led. Language complexities and tendencies to passive behavior combined with suspicion of the "foreign devils" to retard the process of conversion. Further delay was caused by controversies among the missionaries themselves over the meaning of Chinese terms and of certain Chinese and Japanese rites. The disputants finally appealed to Rome to the Congregation for the Propagation of the Faith, and even to the Holy Office.

In the last half-century, there has been greater progress of the faith in China than in Japan. However, the second atomic bomb that burst over Japan wiped out thousands of Catholics in Nagasaki, where the Church had been flourishing. Today the Christian missions of North China, Protestant as well as Catholic, are under heavy pressure from Chinese communists to cease all religious activities, as the Japanese missions were from the Shintoists during as well as before the last war. No clear picture of the Church in China is generally available. Catholic missionaries of foreign origin still remain at their posts in some central and southern parts of China. The strength of the Church in China will, in the long run, depend on the faith and courage of the Chinese laity in support of their clergy, whether foreign or native. The Church in Japan, on the other hand, is experiencing a rising tide of conversions.

The first missionaries to Japan were Spanish, Portuguese, and Italian, before the great massacre of Catholic Japanese in the seventeenth century. In modern times French and German missionaries have carried on a good part of the work. From the end of World War II in August 1945 to the end of November 1948, a little over three years, 459 new Catholic missionaries entered Japan, of whom 113 were from Canada and 101 from

the United States. The remaining 245 came from 22 countries. An article in *Jesuit Missions* reported that although the Church in Japan had only about 122,000 Catholics out of a population of 90 millions, it was growing with astonishing rapidity, with 6,845 adult baptisms in 1948, 15,278 adults under instruction, and over 38,000 students, mostly non-Christian, in Catholic schools.[15] The same authority also reported that already one-fourth of all the priests and brothers and three-fourths of all the sisters in Japan are Japanese. Bishop Thomas McDonnell, then National Director of the Society for the Propagation of the Faith in the United States, wrote in *Catholic Missions* for December 1949, after his return from a visit to Japan, that Catholic social works in Japan—hospitals, dispensaries, orphanages—have been almost doubled since the end of the war and that Catholic Japanese are contributing considerably through their own Saint Vincent de Paul societies for the relief of their poor.[16]

Manning the Missions

Although the training of a native clergy, previously referred to, is always a necessity in the mission field, it is not always easy to accomplish. In some parts of the world a long preliminary period of providing primary and secondary education is necessary before a bishop can think of founding a diocesan seminary with an adequate faculty. To meet their need for clergy during the interim, bishops may do one of four things. First, they may send their native candidates for the priesthood either to the seminary of another bishop or archbishop, or to a seminary in Rome. In the last century the great Roman Collegium Urbanum of the Congregation for the Propagation of the Faith, founded by Pope Urban VIII in 1627, has trained hundreds of men for the mission fields. The diocesan seminaries and convents of Spanish bishops have performed similar services in training men and women for South American dioceses. In such cases the bishops in missionary

[15]Joseph F. MacFarlane, "Hiroshima Four Years After," in *Jesuit Missions,* XXIII, No. 6 (July-Aug., 1949), 14.

[16]Thomas J. McDonnell, "A Short Visit to Japan," in *Catholic Missions,* XXVII, No. 8 (Dec., 1949), 10.

territory pay the costs of educating seminarians and these priests are ordained for the dioceses from which they have been sent; they are native priests. As a second alternative bishops may go abroad to centers where vocations are more numerous and there seek candidates for the priesthood. Here again the missionary bishop pays for the education of the seminarian, preferably in one of the national colleges in Rome. Under these circumstances when the newly ordained priest leaves the seminary for his post, he is not returning home, but going to a foreign country. Some time may elapse before he and his congregation understand each other's ways. A number of dioceses in the United States where Catholics are few and vocations infrequent, still obtain some of their priests from Ireland or Prince Edward Island, where the local bishops have more candidates for the priesthood than their work requires or can support.

As a third possibility, bishops in missionary territory may temporarily borrow or beg the services of priests from other bishops whose zeal for the missions prompts their generosity, or in some cases missionary bishops may adopt for their dioceses priests whom public oppression or revolution have driven from their countries. Thus scarcely an American bishop went abroad in the first quarter of the nineteenth century who did not return accompanied by a group of foreign priests of several nationalities. Some of these men went back eventually to serve the sees for which they were ordained. Others were permitted by their European bishops to transfer to the authority of American bishops. A number of American bishops accepted clerical exiles from the French Revolution and also accepted Jesuit priests as secular priests during the period when the Society of Jesus was suppressed. Bishop William Dubourg, first bishop of the diocese of New Orleans, returned in 1817 to his diocese on a ship furnished him by Louis XVIII of France, with thirty priests, most of them Lazarists.[17] In 1850 Bishop O'Connor of Pittsburgh sent Father Mosetizh to Germany and Austria for priests. The messenger returned with four secular priests and one Carmelite for Pittsburgh, three Franciscan priests

[17]Stephen V. Ryan, "Early Lazarist Missions and Missionaries," in *The United States Catholic Historical Magazine,* I, 249.

for Nashville, Tennessee, one for Milwaukee, one for Chicago. Such examples were common.[18]

The fourth alternative for manning their dioceses with priests is probably the one most used by missionary bishops in modern times. From the superior of a religious order, or in connection with the Congregation for the Propagation of the Faith, the missionary bishop invites a religious order to serve his missions until such time as a diocesan or archdiocesan seminary can provide enough native clergy. Thus in 1791 the Société de Saint Sulpice answered the request of Bishop John Carroll that it undertake the training of priests in the diocese of Baltimore. Founding at first a college and then a seminary, this society contributed many clergy and some bishops to the growing American church. Among the Sulpicians who entered the hierarchy were Bishops Benedict Flaget of Bardstown, Ambrose Maréchal of Baltimore, and James Cardinal Gibbons.[19] American houses of older European orders have also often answered the call of other American bishops to serve Indian and Negro missions. One American religious society, the Congregation of Saint Paul the Apostle, has the unique work of missions to non-Catholics in the United States. In sections where there are no churches, it uses trailer chapels. It also furnishes numerous chaplains to Catholic students in secular universities. Recently it has extended its activities into Central America and Africa. In France, another religious society devoted to the reconversion of working men is training priests to earn their living as laborers and to say Mass in the evening in workers' homes. To societies like the foregoing the bishops turn for assistance in missionary work.

Obviously the first work in foreign missions must be undertaken by foreign priests and sisters. At the same time the foreign missionaries as well as the people to whom they go are human beings, with human frailties and differing customs. At times, complex misunderstandings arise. The sooner a native clergy can be trained for service, the sooner will the Catholic Church have a stable

[18]John L. Zaplotnik, "The Very Rev. John Ev. Mosetizh," in *The Catholic Historical Review*, III, No. 2 (July, 1917), 209.

[19]C. S. Herbermann, *The Sulpicians in the United States* (New York, 1916).

foundation in a new land and the less danger will there be of confusing Catholic conversions with foreign imperialism.

Local desire for native clergy manifests itself in two ways. First, in a newly developed mission territory, where there may be political groups interested in fostering fear and suspicion of foreigners, the native born non-Catholics may be aroused against the missions before native converts are numerous enough or educated enough to take over the administration of the Church. A demand for native clergy may then become a point of agitation for Catholics who wish to free themselves from the suspicion of their fellow countrymen. This happened in both China and Japan, early in the course of mission history. There the antimissionary movement was, and to a large degree still is, a part of the anti-foreign movement. Japanese propaganda before World War II, and Russian and Chinese Communist propaganda since that time have had some such effect in China. There a native hierarchy has come into being, but the Church is not yet strong enough there to staff all of its churches with native clergy. There is one Catholic Chinese for every 140 non-Catholic Chinese.[20]

In Mexico, too, objection to foreign religious orders and foreign clergy and bishops, which still exists to some degree, was partly the result of native opposition to foreign economic control, and partly the result of the spread of Marxist doctrines. An effective answer to the expulsion of foreign clergy and the closing down of Mexican convents and monasteries has been the foundation of a seminary for Mexican students for the secular priesthood at Montezuma, New Mexico, close to the Mexican border. Here in 1951, 360 students were preparing for the priesthood in a seminary staffed by Jesuits.[21] American priests are serving in Mexico, and some Mexican bishops are beginning to train Mexican seminarians in their native land.

[20] A rough estimate, made from figures in the *National Catholic Almanac, 1950*, 99.

[21] *Official Catholic Directory, 1952*, 223.

Chapter V

NATIONAL ELEMENTS

The "National" Problem in America

A SECOND source of demand for native clergy (in the wider sense) appears among immigrants from so-called Catholic countries or regions, who wish the services of priests of their own nationality. This problem rose forcefully in the United States, where the movement for the erection of national churches exempt from the jurisdiction of local bishops had the support of a number of German-speaking bishops.[22] This movement is sometimes referred to as "Cahenslyism."

Non-American interests appeared early in the growth of the Catholic Church in America, where both French and Irish interests sought to establish jurisdiction over the first American prefecture apostolic. In the end the English line of jurisdiction won out, and John Carroll was consecrated bishop by English episcopal authority. The influence of Irish clergy was held responsible for the geographic disunity that developed when the dioceses of Richmond, Virginia, and Bardstown, Kentucky, were split off from the diocese of Baltimore.[23] Richmond was set up as a separate diocese because it was supposedly so far from Baltimore, while Mississippi, much farther away, remained under Baltimore. Irish clergy, who objected to the appointment of French bishops to southern sees, started the ecclesiastical dissension known as the Charlestown riots; and clergy and bishops of Irish descent were among the foremost opponents of Cahenslyism. Resistance to the use of the English language in Catholic pulpits and parochial schools came from French, German, Italian, Spanish, Polish, Lithuanian and other non-English-speaking Catholic immigrants into the United States. They sought not only clergy but also bishops of their own

[22]John J. Meng, "Growing Pains in the American Catholic Church, 1880-1908," in *Historical Records and Studies,* XXXVI (1947), 17-67.

[23]T. O'Gorman, *History of the Roman Catholic Church in the United States* (New York, 1895), 297.

nationality. Defeated in obtaining so-called "national churches" or exemptions from local bishops, they had some major successes in obtaining bishops and clergy of their nationalities. An Irish priest at a Middle Western synod is credited with a famous remark: "I thought this was the Mississippi River; I'm beginning to think it is the Rhine."

The problem of whether to provide foreign language services is diminishing in the United States as the native-born children of foreign immigrants leave the parental home. Realizing that some variety of English will be the customary language used at work and in recreation as well as in public affairs, some forward-looking members of the foreign clergy in America have bolstered the faith of the children of immigrants by teaching them their catechism in two languages. Foreign language parishes are still a problem in this country wherever immigrants from one non-English speaking country have settled thickly in one area. Examples are Germans in the Middle West; Mexicans in Southern California, in certain southern states and northward along the Mississippi; Portuguese and Poles in Massachusetts; Puerto Ricans in New York, and Italians in California, New York, and New Jersey. In 1949 Cardinal Spellman returned from Rome with twenty-five Italian priests to serve Italian-Americans in the New York archdiocese. While such pastoral care may retard acquisition of the English language and delay an understanding of civic affairs, without it there has been and will be grave danger to the faith and morals of these immigrants.

National differences are secondary matters in the doctrinal teaching and thought of the Church, but they are by no means secondary among its very human members, or even sometimes among its clergy and hierarchy. Several years ago a woman traveler, not a Catholic, visited a convent in India near the site of a battle in World War II. There a few nuns, obviously from Europe, were tending the wounds of soldiers from both warring armies, who lay side by side in lines along the crowded corridors. Impressed by the devotion and care of the nurses, she asked the mother superior what was their nationality, and got a reply that surprised her: "We are servants of God and have no nationality." That is

the spirit of Catholicism. But the Church is also a body, one body, founded in a world of nations that perform necessary roles in human society, nations which call upon and receive loyalty from their Catholic as well as their non-Catholic citizens. National consciousness can be too intense. National claims to power that would deny the existence of moral law and the claims of conscience must be resisted; but the right of national states to existence and to loyalty within the moral law is recognized in Catholic teaching.

National Feeling in Rome

National feeling has manifested itself in the Church at all levels of government. The Roman populace has at times shown great hostility to Popes of foreign origin, enough antagonism to lead even the people of Rome to support anti-Popes. Kings and heads of state have striven for, and at times obtained, a veto on papal elections, or a veto on the nomination of bishops within the royal jurisdiction. At one time the government of Spain could exercise a veto over the appointment of bishops in Latin America.[24]

Other nationalistic tendencies have at times led bishops in France, Germany, and England to weaken administrative and financial ties with Rome, and to administer their own affairs more independently. The Gallican controversies which rose and fell over and over again in France for a period of 350 years were notable examples of such a nationalistic trend. The discussions which have taken place in oecumenical councils give evidence that in some of them bishops of one nationality or another have gravitated toward similar views tinged with nationalism. Instances of this trend are found in the Council of Constance in 1414 and in the Vatican Council of 1870.[25]

The spirit of nationalism reveals itself in yet other ways such as rivalries between missionary orders in the mission fields, and among the different national branches of world-wide missionary societies. It is evident in pride that emphasizes native martyrs and saints, and in strong support for privileged rites, or for Eastern

[24]Joseph McSorley, C.S.P., *An Outline History of the Church by Centuries* (St. Louis, 1943), 568, note.
[25]This may be seen in any standard history of the conciliar movement.

rites in the celebration of Mass. The Italian government in the nineteenth century passed a law which required Italian monasteries to be headed and inhabited by monks of Italian nationality, under penalty of consfication for violations of the law. Since some Italian monasteries were used for the study and training of non-Italian members of the orders, some monasteries closed their active work in Italy, and left their foundations in charge of Italian members until better times might arrive. Some foundations were seized, others seized and later returned to the orders.[26]

[26]An example of this is the extremely interesting Carthusian monastery, the Certosa, near Pavia.

Chapter VI

SUPRA-NATIONAL ELEMENTS

The Changing College of Cardinals

ANOTHER manifestation of national feeling within the Church has been the expressed desire of Catholics in North and South America and the Far East for the appointment of more non-Italian cardinals. For over eight hundred years every successor to the Holy See has been Italian; the last foreign Pope was Adrian VI, born in Utrecht. Similarly, more than half of the cardinals have been of Italian birth. There were several reasons for this. Chief among them is the fact that most of the cardinals were needed as assistants in the Papal Curia. The rank of cardinal was originally attached to the bishops of the suburban sees around Rome, the pastors of the large Roman churches, and the deacons in charge of Roman charities. These men were called into consultation for the administration of the diocese and of the Church in general. It was also desirable that cardinals speak Latin and Italian fluently. Later, bishops and other administrators who had acted in a diplomatic capacity for the Holy See in foreign lands were added to the Sacred College in an effort to obtain a greater wealth and universality of judgment. Some of them were permitted to live in their own countries rather than in Rome. In the meantime, although the Church grew stronger in England, in the United States, and in South American countries, the College of Cardinals remained predominantly Italian.

During the latter part of the reign of Pius XI and the beginning of that of Pius XII, the College of Cardinals dwindled from sixty-six to thirty-eight. In 1945 Pope Pius XII restored it to its full complement of seventy by creating thirty-two cardinals. In so doing, he elevated to the rank of cardinal a number of bishops who had stood adamant for Christian principles and the liberty of the Church against the pressure of totalitarian governments; and at the same time he created more non-Italian than Italian cardinals, not so much in answer to national desires as in recognition of the universal

or catholic character of the Church. Since then many members of the College have died. In January, 1951, nineteen of the remaining fifty-two cardinals were Italians; five cardinals were French; four were from the United States of America. During 1951 the death of Cardinal Dougherty of Philadelphia reduced this number to three. There were five from four South American countries and one from Cuba. Two were Germans, two were Belgians, three Spaniards, one each English, Canadian and Australian; one Pole, one Hungarian from behind the Iron Curtain. The remaining seven are from Iraq and Armenia in the Near East, Austria, Belgium, the Netherlands, Portugal, and China.[27] This list reflects the weaker relative strength of the Church in older, so-called Catholic countries such as Italy, Austria, Spain, and Germany, and the growing influence of the Church in the Western Hemisphere. This change in the College of Cardinals can be interpreted either as a concession to nationalistic feelings in the Church in western nations, or as a somewhat more proportional participation of the non-Italian hierarchy in the government of the Church as a whole. The latter seems the truer explanation. Whether it will result in the election of a non-Italian Pope is doubtful.

While the College of Cardinals has been undergoing change, the older Catholic countries have lost another privilege conceded to them because of their long historic connection with the Popes at Rome. The so-called "veto" on the election of the Popes, exercised on occasion by the governments of Austria, Spain, and France, has quietly expired without being mourned. This privilege, which was one of courtesy, not of law, was several times exercised by the Austrian Government. Although the terminology might seem to indicate otherwise, the "veto" power was not the power to invalidate an election already held. It was rather the privilege of requesting beforehand that a certain candidate be not considered, or else the privilege of receiving first notification of the election. In 1940 Pope Pius XII forbade its further use.[28] The ambassador of Nazi

[27] *Annuario Pontificio, 1951,* 29-62.

[28] Jean Carrère, *The Pope.* Translated by Arthur Chambers (New York, 1926), 165. Under the legislation promulgated by Pope Pius X in 1904, *Vacante Sede Apostolica,* chapter VI, paragraph 81, cardinals and all officials concerned with a conclave are forbidden under pain of excommuni-

Germany to the Holy See attempted to intimidate the conclave of 1939, but with notable lack of success, for the Cardinal against whom he spoke now reigns as Pope Pius XII.

Two institutions of governmental character have developed within the Church in direct response to the growth of national feeling. One is the series of national colleges established in Rome, the other is the informal national conferences of bishops. In these national meetings bishops can consult one another on the effect of national political events, or on measures which involve questions of faith or morals, such as the question of national aid to public school children and exclusion of parochial school children from public aid in the United States. Here they are also able to unite in a statement which points out current dangers to faith and morals. The bishops of Germany at one of their Fulda conferences explained the moral dangers inherent in Nazism. In the thirty-six national colleges at Rome, on the other hand, seminarians from the far ends of the earth sleep and eat and study for the priesthood among their fellow countrymen, while at the same time they meet and mingle with seminarians of many nationalities in the universities, in the churches, and on the streets of Rome. The universities range in age from the German College founded in 1522, to four colleges founded during the reign of Pius XI. Four of them are headed by members of the Jesuit order. In these seminarians, and to them, Rome presents herself in her historic grandeur and glory. There is rivalry among them in headgear and buttons, in the color of their robes and sashes, but there is likewise an increased awareness and appreciation among them of their doctrinal and apostolic oneness. Back in their homelands, where many of them have become bishops, they often wield a Roman and unifying influence which is not always appreciated by their fellow bishops who are products of local training.

Shifting Lines of Authority

In an effort to avoid administrative controversies with national governments, the Popes have customarily adjusted the boundaries

cation to accept for transmission to any member of the conclave any so-called "Veto" or "Exclusiva" proposed by a civil government. Papal documents regulating the election of the Pope are printed as appendices to all official editions of the *Codex Juris Canonici.* See also Bouscaren-Ellis, *op. cit.,* 157.

of missionary areas and dioceses so that they would lie completely within the territory of one state. It therefore sometimes becomes necessary, as nations gain or lose territorial sovereignty, for the Popes to shift the lines of episcopal authority. For this reason French bishops lost jurisdiction in America to Spanish bishops after the treaty of 1763, and later control over parts of Louisiana territory passed to the American church.[29] Subsequently, as this country expanded westward, more ecclesiastical jurisdiction was shifted to the American church. An example of such transfer is Oregon.

In the transfer of Canada to British political rule in 1763, the diocese of Quebec retained its jurisdiction in Canada and the vicar apostolic of the London district was to have jurisdiction over all other territory ceded to England by the treaty of Paris. From 1818 to 1845 the territory of Oregon was disputed politically; ecclesiastically it was considered to be neutral territory. When the Holy See granted a request of the second provincial council of Baltimore in 1833 for Jesuits in the Indian missions, Father De Smet left in 1840 for the West, where he arrived four years later at Columbia Bar via a journey around Cape Horn.[30] In the meantime, what is now British Columbia had been annexed by a grant of 1836 to the Vicariate Apostolic of the Northwest at Boniface, Manitoba. This vicariate was attached as an auxiliary and suffragan see to the diocese of Quebec. The American missionaries of the West were instructed not to exercise their faculties in the territory which was contested by the two governments. Together, in 1838, the episcopal authorities of Quebec and Baltimore recommended that a special mission of Oregon be created, and Father Blanchet, who was already serving as vicar general of the Bishop of Quebec in Oregon territory, was appointed when the Holy See acted on this recommendation. Then began a long and perilous journey for the missionary. To be consecrated in Montreal he

[29]A table of Catholic jurisdictions in French and Spanish possessions can be found in Peter Guilday (ed.), "Notes and Comments," in *The Catholic Historical Review,* I, 251.

[30]Father De Smet left in response to a request of the Flathead and Nez Perces Indians, who sent to St. Louis for missionaries in 1831. He aroused the American hierarchy to their needs. Cf. O'Gorman, *Catholic Church in the U. S.,* 421.

sailed in 1843 for London, touching at Honolulu and rounding Cape Horn; from London he travelled to Boston and thence to Montreal, a total distance of 22,000 miles. While he was absent, the British American treaty of 1846 established the present boundary of Oregon, and the bishop came back to his diocese in Oregon City as the head of the second American province of the Catholic Church in order of time.[31] The first synod of Oregon was held in the Church of Saint Paul on the Willamette in 1849.

Numerous transfers of jurisdiction have given American Catholic bishops ecclesiastical authority over lands acquired by the United States. In 1950 various members of the American hierarchy exercised jurisdiction over the vicariates apostolic of Alaska, of Guam, of Samoa, over two dioceses of Puerto Rico, over a vicariate apostolic and other territory in the Canal Zone, over the diocese of Honolulu in Hawaii, over three vicariates apostolic in British territory (in the Bahamas, Jamaica, and British Honduras), over two dioceses of the Oriental rite in the United States proper, over one abbey *nullius*, and over the military ordinariate of the American Army and Navy.

Some Statistics

As of January 1, 1951, the Church in the United States had four cardinal archbishops, twenty-three provinces and one hundred sixty bishops, 27,347 secular and 15,623 religious clergy, and a Catholic population, in the continental United States, of 27,766,141.[32] Today as a result of two wars and of the difficulties experienced by the Church as a whole under totalitarian governments, a large part of the responsibility for foreign missions, both in funds and in personnel, is falling upon the Catholic Church in the United States. In 1949, almost twenty-eight million Catholics lived under the jurisdiction of Catholic missions on six continents and in Indonesia. The Second World War brought losses of over fifty million dollars to Catholic missions, killed 1,430 missionaries, and injured 540 more. Into the breach thus created have gone

[31]Owen B. Corrigan, "A Chronology of the Catholic Hierarchy of the United States," in *The Catholic Historical Review*, I, 379. St. Louis was the third diocese (1847).

[32]*National Catholic Almanac, 1951*, 183.

American missionaries, priests, brothers, and nuns. In July, 1949, 4,123 Catholic Americans, 2,375 men and 1,748 women, were in active mission service outside of the United States, an increase in three years of 1,030 missionaries abroad.[33] Supporting these workers in the field were forty-nine American communities of men and seventy-three communities of women. Still the fields are white for the harvest and the laborers all too few. Yet wherever they go, they go in unity of faith and of sacraments and in administrative unity with the Papacy. Through and in the person of the Popes, lands under religious orders supervised by the Congregation of Religious and missionary territory under Propaganda are joined in apostolic unity with the established dioceses, combined to make the Universal Church.

This Church, a world-wide spiritual community, is neither national nor international; it is not organized on lines of nationality. It recognizes the existence of national states, and the necessity for such units of political rule, without necessarily approving of the actions of their officers. In some respects it adjusts its administration to national lines; in other respects it adheres to the principle of universality. So it modifies its own boundaries in order to diminish conflict with national states and also makes concessions to the national, cultural and linguistic needs of Catholics, while it remains a world-wide Church.

* * *

Organized on a level independent of nations, the Catholic Church is now facing the organization of political units on the international or supranational level. Among them are the specialized agencies such as the International Labor Organization and the World Health Organization as well as the United Nations and the Communist Party. How does the Church compare with them as a world society? Is it a world government? Is it a world state?

[33] *Ibid.*, 349.

Part III

THE CHURCH AS A WORLD SOCIETY

Chapter VII

THE CHURCH AS A WORLD SOCIETY

The average Catholic, living in a diocese and under its regulations, usually thinks of the Catholic Church in Rome in terms of making a visit there and of an audience with the Holy Father. This is not the viewpoint of most persons who are not Catholics, who frequently think first of the Catholic Church as a world-wide institution whose interests are political as well as religious and extend far beyond the territorial borders of any national state. In so considering the Church as a whole, the non-Catholic often regards it with distrust and even with fear, asking "Is the Church a world state, a world power, a world government, or none of these things? How does it compare with two other world-wide bodies which lay claim to world-wide authority, the United Nations and the international Communist Party? Is it totalitarian?"

It is more fitting to call the Church a world society than to call it a world state, a world government, or a world power. The latter term would be misleading if applied to the Church. If one considers the temporal power of the Popes in Vatican City it is true that in many ways the Holy See resembles a national state such as England, France, or Italy. However, to call it a world-wide state would imply that wherever it exists it exercises some sort of territorial power. No state exercises world-wide civil jurisdiction; neither does the Church. There is no world state.

Neither is the term "international society" applicable, because the Church, as a world organization, does not have nations as members. It is not a league of nations, nor a league of national churches, nor a league of dioceses, but one and indivisible, the Holy Roman Church. Its basic units of administration are dioceses and provinces, rather than nations. The Holy See is a diocese, and also the central see of an ecclesiastical province. It possesses also, under the name "State of Vatican City," a very small territory recognized as sovereign by other states, but it is not in any sense an "international" agency.

Neither would it be correct, from the point of view of political theory, to refer to the Church as a "world government" or a "world power." It neither governs the world in any customary sense of the word "government", nor has it the economic and political forces it must command to be considered a "power." Yet there is no doubt whatever that it acts in many ways like a government or that, like a world "power," it exercises tremendous spiritual authority over its members and also exerts notable influence throughout the world on many who are not of its membership. The words which most truly describe the Church are "world community" or "world society." It is an oecumenical community, one in faith, one in the sacraments; a communion under one law, a body under one head. Where the Catholic faith is, where the sacraments are obtainable, where Mass is offered, where priests of its communion may be ordained, there is the Church. The life of this body is sacramental life. It is a union in Holy Communion, a union wherein dwells the Holy Spirit.[1]

For purposes of clarity two questions here require an answer: 1) Is the Catholic Church a national state? and 2) Is Vatican City a sovereign state? The first question must be answered in the negative, the second in the affirmative.

The Church a National State?

The Universal Church has, it is true, many of the attributes of a national state. It has governmental forms, continuity, and unity—important essential elements of a national state. It has "population", in the sense that millions of Catholics the world over recognize its authority in spiritual matters. But its unity is spiritual and sacramental, not social, linguistic, or cultural. Its faithful "population" is made up of individuals who possess, cherish, and implement a temporal allegiance to one or another of the numerous national states of the world. It is not a body of more or less homogeneous national unity, but an administration without nationality. Its ecclesiastical language, ecclesiastical Latin, is not

[1]An excellent analysis of the Church community is to be found in a lecture by Father Philip Hughes, "The Constitution of the Church," in *Under God and the Law. Papers Read to the Thomas More Society of London* (Westminster, Md., 1949), ed. by Richard O'Sullivan, 61 ff.

classical Latin, nor is it completely universal as the language of its rituals or its documents, and the use of this language is generally confined to its clergy.

The "distinguishing mark" of the national state, according to many political scientists, is sovereignty—internal authority, and external independence, interpreted in terms of the police power and armed force. There is no papal army, but the Church does perform some sovereign functions. It has an effective law—canon law, the product of oecumenical councils and of papal decisions, although this law is not comparable to ordinary civil and criminal law. Canon law does not, for example, embrace the civil relations of members of the Church. The Holy See does sign treaties and concordats which require no further ratification within the Church to become binding engagements. Such treaty negotiation is generally recognized as the exercise of a sovereign function. However, the Church does not have material force at its command—the armed "effectives" by which some governments measure the strength of all governments.

Not only has the Pope no army, but he exercises little or no police power over health, safety, and welfare. Catholic hospitals, which exist around the world and which antedate public hospitals by centuries, are not public services for members of the Church, but rather private agencies which provide private health and medical services, as well as charitable services, without religious distinction. The government of the Church at Rome exercises little or no immediate authority over such institutions outside of the diocese of Rome.

The educational services that the Church provides consist of universities, colleges, secondary schools, and parochial schools established by and under the authority of bishops; or of pontifical colleges, and universities sponsored by and partially supported by the Pope; or of seminaries for training priests, erected and supported by dioceses, provinces, or, in Rome, by the Holy See. This educational function more nearly approaches the exercise of the police power of states, but there is considerable local autonomy in this matter. The curricula are adjusted to local circumstances and to state requirements. Although seminaries and

pontifical universities tend to follow a general pattern of higher education, the curricula of other institutions vary from diocese to diocese and from country to country with some generic supervision from the Church at Rome by means of the Sacred Congregation for Seminaries and Universities.

Finally, from a governmental point of view the revenues of the Church are voluntary contributions rather than taxes. In actual fact the collection of Peter's Pence may be under some assessment system, by which the amount to be expected from each contributing administrator is more or less set by mutual agreement during regular visits to Rome. These matters are not publicized for the curious eyes of laymen, or even of the hierarchy. The Pope has other revenues—gifts, the customary diocesan proceeds of the diocese of Rome, and payments made by the Italian Government on the relatively nominal sum set as compensation for the extensive confiscation of papal properties in and after 1870.[2]

Vatican City a Sovereign State?

From the considerations above it may be concluded that whatever else it may be, the Universal Church is not a sovereign state. The same comment does not apply, however, to Vatican City. In that miniscule area of territory the Pope reigns as both spiritual and temporal ruler. Faithful Catholics of all the world recognize the spiritual sovereignty of the Pope; at the same time they recognize also the temporal sovereignty of their civic rulers. In Vatican City alone, and in the small territorial enclaves attached to it, does the Pope possess and exercise a true temporal sovereignty. There he is not only the spiritual ruler, but the civic ruler as well. There he possesses definite, independent, and supreme temporal authority. This state, small as it is, has a resident population living within well-defined boundaries. It has its own civil government quite independent of external control. Yet some political authorities deny to it the character of a sovereign state.

[2]Cf. the Financial Convention which was a part of the settlements of February, 1929, and is printed in Royal Institute of International Affairs, *Documents on International Affairs, 1929* (London, 1930), 226. Italy agreed to make an immediate payment of 750,000,000 Italian lire and simultaneously to hand over to the Holy See "such a sum in Italian 5% Consolidated Bearer Bonds" (with coupons currently payable) "as shall represent the nominal value of (one billion) Italian lire."

Its so-called territorial subjects, they point out, are usually also citizens of Italy. Furthermore, by the Treaty and Concordat of 1929 with Italy, Vatican City gave up some civil authority over its non-national subjects by agreeing on occasion to submit the authors of common crime perpetrated within Vatican City to the jurisdiction of Italian law and courts.[3]

Those who question the statehood of Vatican City claim that its territory is too small to be truly independent or sovereign. Vatican City is 108.7 acres in extent, one-sixth of a square mile;[4] it is really a large garden bounded by a high wall, by St. Peter's Basilica and the Vatican Museum, by buildings used for the offices and for some few residential rooms of Vatican personnel. Among these buildings is the Vatican Palace, where the Vatican Library is, and where the Pope lives in a few rooms. Audiences are also held here. Vatican City and other papal enclaves of land in Italy are entirely surrounded by the territory of one national state, Italy. It is necessary to travel through Italy to reach the Holy See. As a result, the argument runs, the freedom of the Church to govern itself depends on the sufferance of the Italian Government. Pope Pius XI admitted that he would have to rely on the good faith of Italians and of the Italian Government for fulfilment of the Treaty, Concordat, and Financial Agreement of 1929, but he also reminded observers that the ratification of a treaty between Italy and the Holy See was itself a proof of the equal sovereignty of both signatories.

Relations with Italy

For almost sixty years before the agreements of 1929, the unwillingness of the Italian Government to recognize papal sovereignty in Vatican City had kept the Popes prisoners within the Vatican. One after another the occupants of the Holy See had refused to go out of Vatican territory, to visit their summer home at Castel Gandolfo, to call upon the Italian king, or even to bless the people

[3]Cf. the Treaty of Conciliation, February 11, 1929, article 22 in *Documents on International Affairs, 1929*, 224. At the same time the Holy See agreed to extradite criminals to Italy if charged with crimes prohibited by the law of "both States."

[4]*National Catholic Almanac, 1950*, 57.

and city of Rome from the balcony of St. Peter's, until they could do so as a sovereign recognized by the Italian state. For almost sixty years Roman society was divided into the Whites or *Bianchi*, who entertained in lighted salons and associated with the officers of the Italian kingdom, and the Blacks or *Neri*, whose salons were closed, who did not entertain formally, and who associated with the officers of the papal administration. During all that time the Cardinals who entered a conclave to elect a new Pope could expect that one of them would remain immured within Vatican walls for the rest of his life.

Pope Pius XI signed the agreements by which papal sovereignty received Italian recognition, and he also blessed the rejoicing Romans from St. Peter's balcony. He drove out later in the year into Rome and still later to Castel Gandolfo for a summer's vacation. An exchange of visits between the Pope and the King of Italy also took place in 1929, for the first time in fifty-nine years. Now Italy has no king, but the relations between the Papacy and the Italian state, except for political party changes made since that time, are as they have been since 1929. The Lateran agreements have been made an integral part of the republican constitution of Italy.

Even while the Italian Government was refusing to make public acknowledgment of papal sovereignty, it gave practical recognition to the sovereign status of the Pope in Vatican City by not interfering with the activities of the Holy See. The only exceptions were one or two anticlerical demonstrations of Italians in St. Peter's Square within the domain of the Holy See, the expulsion from Italy during World War I of ambassadors to the Pope from countries with which Italy was at war, and the interception of papal telegrams and mail to and from these same territories.

By the treaty of 1929 the sovereign status of the Pope was recognized. Any attack made upon his person in Italy would incur the penalties incurred by an attack on the head of the Italian state. The diplomatic immunities of envoys to and from the Holy See were recognized as equal to those of ambassadors to and from the

[5]Cf. the Treaty of Conciliation, 1929, articles 8-12, and 19, *op. cit.*, 223-224; and the Concordat of the same date, article 2, *ibid.*, 227.

government of Italy. Papal lines of communication, by radio, telegraph, telephone, and railway were also recognized as immune from interference.[5] Italy and the Holy See exchanged ambassadors and nuncios. In furtherance of his freedom of communication, the Pope built a private railroad entrance to Vatican City, and erected a powerful radio transmitter to broadcast papal messages. New York's Francis Cardinal Spellman was the English translator of the first Latin message sent by Pope Pius XI from the Vatican City radio station.

During the Second World War foreign envoys from countries at war with Italy were housed within the Vatican, as were the students of the Ethiopian College at Rome, and some unnamed persons who sought and received political sanctuary from the Church.[6]

The Papal "Army"

Another reason why some political theorists deny that the Catholic Church in Vatican City can be called a state is that it does not perform all the usual civil functions performed by other states. Significantly, they say, it maintains no national army.

The Swiss Guards, traditional bodyguards of the Pope, are hired soldiers, not a citizen army. Their chief security function is to provide guards for the gates of Vatican City, the doors of the palaces, and the papal apartment. Some of its members are also present whenever the Pope officiates at a ceremony in the papal chapel. Today the Swiss Guards are equipped with modern rifles, and recently they have received permission to practice marksmanship on a rifle range belonging to the Italian Government. The pontifical gendarmes, not the Swiss Guards, are the official police force of Vatican City. They police the interior corridors of the palaces as well as the gardens. Some of these police double as musicians by giving concerts on certain feast days.[7] A bugle corps of the Swiss Guards performs at solemn ceremonies in St. Peter's.

[6]Among the "nameless" ones who sought and received sanctuary were political leaders opposed to the policies of the Church, some of whom have since that time revealed their identity.

[7]*National Catholic Almanac, 1950,* 58.

Two other quasi-military services attached to Vatican City are the Noble Guards, who number about seventy, and the Palatine Guards, who number about five hundred. The first group, chosen from young men of Roman noble families, are the Pope's personal bodyguards when he appears in public, at audiences and some ceremonies of a solemn nature. They carry swords. When the Pope officiates at solemn ceremonies in St. Peter's, or when, during a conclave, a larger number of guards is needed in the Vatican, the Noble Guards are augmented by the Palatine Guards, youths chosen from non-noble Roman families. Altogether these forces do not contain more than about a thousand men, nor could they be called an army, although the Noble Guards fought the invading Italian forces in 1870 until the Pope ordered them to desist. Papal Knights, another group with a name that has military connotations, wear colorful military uniforms and carry swords, but they play no military or police role. They do not live in Rome, and their titles are honorary.

Although papal sovereignty is denied by some political theorists, it is accepted by others. These latter classify the Papacy, in Vatican City, as a small, weak, non-national sovereign community that might be called a state. To them, Vatican City retains the sovereign character of the Papal States, of which it is the surviving remnant. Their judgment is supported by the fact that in Vatican City are exercised many powers that are customarily recognized as sovereign and there are exhibited the legally accepted marks of sovereignty. Vatican City has its own civil law and courts. It has also a papal flag, a papal crown, a coat-of-arms, a postal administration, and its own postage stamps. Like a monarch, the Pope has a throne room, a throne, and a court with court dignitaries. He also gives audiences of varying degrees of formality.

Vatican Rules of Order

Moreover, life in Vatican City is governed by court punctilio and protocol. One of these rules is that the Pope dines alone. When Achille Ratti, Pope Pius XI, wanted to invite his sister to Sunday evening supper, there was scandalized protest from his officials because such an invitation was contrary to rule. "Who

made the rule?" asked Pope Pius. When informed that it had been set by one of his distant predecessors on the papal throne, he replied: "What a Pope can do, a Pope can undo." His sister joined him at supper. Kings and presidents, and heads of other states call upon the Pope when they visit Rome just as they call upon the political head of Italy. At times there have been ceremonial difficulties over these visits, so that it was almost impossible to call upon both the Pope and the King during the same visit. At times visiting sovereigns or relatives of sovereigns have had to face criticism from predominantly non-Catholic peoples because they had called socially upon the Pope. The visit of Princess Margaret of Great Britain to Rome, during which she called upon the Pope, and later that of Princess (now Queen) Elizabeth and her husband are recent examples of this situation. This attitude is not general, however, nor is it as prevalent as it was even fifty years ago. On the contrary, an increasing number of national governments maintain official relations with the Pope by sending and receiving diplomatic missions.

The Church supervises the work of its own foreign representatives and deals with representatives sent to it by foreign governments, including that of Italy, through the work of the papal Secretary of State and of one Sacred Congregation, the Sacred Congregation for Extraordinary Ecclesiastical Affairs. The papal Secretariate of State is an administrative office which dates from the rise of diplomatic representation among governments in the fifteenth and sixteenth centuries. Originally this office in the Church was held by a cardinal related closely to the Pope. Pope Innocent VIII, in 1481, unified the work of the "superintendent of ecclesiastical affairs of state." Before 1870 the Secretary of State directed the meetings of the council of ministers for the Papal States; since 1870 his work has been principally that of directing the foreign relations of the Holy See. He thus fulfills the usual duties of the head of a foreign office in a civil state. He receives ambassadors formally before they are received in private audiences by the Pope, and he acts as chief to the apostolic nuncios sent abroad by the Holy See.

On rare occasions the Secretary of State entertains socially for

the Pope, because the Pope does not have state dinners as do Presidents of the United States. The Secretary of State also acts as a liaison officer between the Pope and the Sacred Congregations. He may, *ex officio,* attend a meeting of any one of them. Appointments to the curia are made through him. He sometimes conducts a limited press conference when the Pope has made or wishes to make a statement on a current question. But such a statement is more likely to appear in the *Osservatore Romano,* the semi-official Vatican newspaper. Pope Pius XII was Secretary of State before he became Pope. Since the death of Cardinal Maglione, shortly after the beginning of his reign, the Pope has acted as his own Secretary of State. There is, however, a substitute Secretary of State who performs some of the duties of the Secretary, such as meeting distinguished pilgrims on arrival in Rome.

Diplomatic Representation

The Secretary of State is aided in his work by a diplomatic staff, members of which are sent abroad in exchange for diplomatic representatives accredited to the Holy See by other governments. Advisers are also sent to the bishops of countries which do not maintain diplomatic connections with the Pope. For this diplomatic service the Pope uses prelates who have no diocese, but who are given the titular rank of bishop or archbishop without a residential see. In 1951, forty-six governments had diplomatic representation at the Vatican, but not all of the posts were filled. Most of these representatives are accredited from either the older so-called "Catholic countries" of Europe, Austria, Belgium, France, Poland, Portugal, and Spain; or from Latin American states in Central and South America and the Caribbean area. Three are from the Near East, four from behind the "Iron Curtain", including one from Lithuania which is no longer recognized as a state. India, Eire, and Great Britain each send a diplomatic representative.

The government of France discontinued its representation at the Vatican in 1906. In 1924, when the Chinese Government renewed an old request for diplomatic connection with the Holy See,

the government of France asked to renew its own diplomatic ties with the Pope and at the same time asked to have French bishops in China retain their predominant position in representing the interests of the Church in the Far East. As a result of the French requests, and of other factors, the exchange of papal diplomats with the Chinese Government was delayed until 1934.[8] This situation may have stimulated the desire of Pope Pius XI to develop a native Chinese hierarchy. In January, 1951, the diplomatic posts at the Vatican of nine countries—Czechoslovakia, Germany, Japan, Guatemala, Honduras, Hungary, Panama, Paraguay, and Romania—were vacant.[9]

Through the Secretary of State the Holy See returns papal nuncios or internuncios as diplomats to the countries from which it receives diplomats. The position of nuncio corresponds to the civil title of ambassador, that of internuncio more or less closely to the civil title of minister. When the Pope wishes to send a representative on a special brief mission he may send a cardinal with the title of legate *a latere*. To countries which send no diplomatic representative to the Vatican, the Church sends non-diplomatic officers called apostolic delegates. They act as advisers to the hierarchy and as liaison officers between the hierarchy and the Sacred Congregations in Rome. They also report to Rome on the conditions of the Church throughout the whole country in question.

The war and the following Communist revolutions have disrupted the connection of the Holy See with some governments, so that some diplomatic and some non-diplomatic posts of the Pope are vacant; others are held by temporary officers. In January, 1951, forty-four of the sixty-seven papal posts abroad were diplomatic nunciatures or internunciatures, and twenty-three were

[8]The exclusive protection of Christian missions was granted to the French Government by the Chinese in a series of treaties from 1844 to 1899, substantiated by two accords between the Vatican and the Republic of France in 1926. Cf. Yves de la Brière, *L' Organisation internationale du monde et la papauté* (Paris, 1924), 245. French opposition prevented two earlier nuncios to China from being sent on their missions. In the end an apostolic delegation was created. Cf. Yves de la Brière, *Les Luttes présentes de l'église* (Paris, 5th series, 1921), 232 ff. Also V. K. Wellington Koo, *The Status of Aliens in China* (New York, 1912), 302 ff.

[9]*Annuario Pontificio, 1951,* 876-885.

apostolic delegations. Six of the diplomatic posts—Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, and Romania—were vacant. Three of these are in the Baltic states which have been crushed out of existence and incorporated into the Soviet Union. Further antireligious disturbances continue in a number of the Soviet satellite states. Four of the apostolic delegations, those in Albania, Bulgaria, Greece, and Syria, were also unfilled in January, 1951.[10]

Altogether eleven posts, diplomatic as well as non-diplomatic, are now filled by temporary officials. For example, Bishop Joseph Patrick Hurley of the diocese of St. Augustine, Florida, was sent by the Holy See as Regent *ad interim* of the Apostolic Nunciature to Yugoslavia in 1945.[11]

Since the government of Germany has not been fully restored to sovereign status since the last war, diplomatic ties of the Holy See with Germany have not been fully restored. Bishop Aloisius Joseph Muench of Fargo, North Dakota, was first sent by the Pope to Germany as liaison officer with the American Military Government in July, 1946. After the Bonn government came into being, Bishop Muench was appointed regent of the Apostolic Nunciature in Germany. In 1951 he was appointed nuncio by the Holy See.[12]

Another American, the Most Reverend Gerald P. O'Hara, Bishop of Savannah-Atlanta, served as regent of the Apostolic Nunciature in Romania between January, 1947, and July, 1950, when he was dismissed by the government of Romania on trumped-up charges which included spying. In November, 1951, Bishop O'Hara was appointed papal nuncio to Ireland.

Of the twenty-three apostolic delegates, ten report to and are dependent upon the authority of the Congregation for the Propagation of the Faith, five are dependent on the Consistorial Congregation, and eight on the Congregation of the Oriental

[10]*Ibid.* 865-874.

[11]The possibility of Bishop Hurley's return to the United States was discussed in 1949 (*New York Times,* May 31, 1949). He remained in Yugoslavia, becoming an archbishop without a province in August, 1949.

[12]Bishop Muench was made an archbishop in 1950 (*New York Times,* November 2, 1950).

Church. Those which depend on Propaganda are delegates to the hierarchy in missionary territories. Some of them are delegates to more than one country at a time. The apostolic delegations which depend on the Congregation of the Oriental Church are those located in countries where there are Catholics of the Eastern rites. Three of the apostolic delegations dependent on the Consistorial Congregation are in English-speaking countries—Great Britain, Canada, the United States—where the Church is well established but where the government does not wish to receive a nuncio. Mexico and the Philippines are in the same category. Great Britain sends to the Holy See an envoy with diplomatic rank, but does not receive a nuncio in exchange. Canada sends no representative to the Papacy, and the United States has sent no official representative since 1868. One reason why the governments of these three countries do not wish to receive papal envoys is that the work of the Catholic Church in them is not regulated by any concordat between the Pope and the government. The English Government has its own established church. In the United States the Federal Constitution makes an established church impossible. In all these countries there have been periods of Protestant-Catholic friction, and there is great national opposition to close diplomatic relations with the Pope.

The United States and the Vatican

Between 1848 and 1868 the United States accredited a minister to the Papal States. Between 1797 and 1870 United States consuls resided at Rome, Ravenna, and Ancona within the territory of the Papal States. Between 1826 and 1870 papal consuls resided variously in Washington, Trenton, Philadelphia, New York, New Orleans, Baltimore, Charleston, Norfolk, Savannah, Boston, Cincinnati, and San Francisco. The Vatican has never accredited a regular diplomatic representative to the United States. The nearest approach to papal diplomatic representation here occurred when Pope Leo XIII sent Archbishop Francesco Satolli to the United States with the title of Papal Ablegate to represent the Holy See at the opening of the World's Columbian Exposition in Chicago in 1892, and to deliver to the United States Government on loan

various precious cartographical exhibits from the Vatican collections.[13]

From 1870, when the Papal States were incorporated into the new Kingdom of Italy, until 1939, the United States maintained no official agent in any capacity at the Holy See. On Christmas Eve in the latter year President Franklin D. Roosevelt announced the appointment of Mr. Myron Taylor as his personal representative to the Pope. This was not a regular diplomatic appointment, but it did constitute quasi-recognition of the sovereignty of the Holy Father. Mr. Taylor's mission in the character of personal representative of the President was continued in May, 1946, by President Truman. This type of official contact between the two heads of state was terminated with Taylor's resignation on January 18, 1950.

Mr. Taylor's original appointment by President Roosevelt, as well as its renewal by President Truman, occasioned emphatic protests by the leaders of various non-Catholic religious groups in the United States. After Mr. Taylor's resignation the post which he had held was not filled.

It was therefore a matter for considerable general surprise—to Catholics and non-Catholics alike—when President Truman, on October 20, 1951, sent to the Senate for confirmation the appointment of General Mark Clark as ambassador extraordinary and minister plenipotentiary to the State of Vatican City. The nomination came to the Senate on the closing day of the first session of the 82nd Congress, too late for action to be taken upon it. A recess appointment by the President was not feasible because of the desire of General Clark to retain his military rank and a law of 1870 forbidding the appointment of military officers to civil posts in the executive branch. Only Congress could waive this prohibition. In the interval between the end of the first session, and the opening of the second session of the Congress on January 8, 1952, protests against the resumption of formal diplomatic relations with the Vatican poured into the White House. The President indicated

[13]The two standard source works on official United States-Vatican relations are both edited by Leo F. Stock: *United States Ministers to the Papal States . . . 1848-1868* (Washington, 1933), and *Consular Relations Between the United States and the Papal States . . .* (Washington, 1945).

that he intended to resubmit the nomination of General Clark to the Senate. A considerable furore over this matter seemed to be shaping up when Congress reconvened. Shortly after the opening of the congressional session the President, at the request of General Clark, withdrew the nomination, but indicated that he would later submit another name for the same post.

A majority of objectors to the move alleged that it would constitute a violation of the "American principle of separation of church and state" in that it would prefer one religion over another. Here it might be noted that the proposed appointment would accredit an ambassador to the head of a state who happens to be also the head of a church. This constitutes no precedent, since the King of Great Britain is also head of the Church of England. There is, nonetheless, a difference in the two situations. The King of Great Britain is primarily a temporal ruler, and only secondarily a spiritual leader; the Pope is primarily a spiritual sovereign, and only secondarily, a temporal ruler. The temporal dominions of the one are vast, those of the other minute. In theory at least, however, they are equally temporal sovereigns, legal rulers of independent states. Political scientists do not measure the existence or non-existence of statehood by extent of territory or size of population, but rather by the presence or lack of sovereignty. The United States accredits diplomatic representatives to political entities whose practical independence from external control is far less than that of Vatican City. From the point of view of theory and law it would seem that there can be no valid objection so long as the American representative is accredited to the Pope as sovereign of the State of Vatican City, and not to the Pope as Supreme Pontiff of the Roman Catholic Church.

From the point of view of political advisability and the practical interests of the United States, this proposed appointment may be legitimately questioned, just as the proposal to establish a new set of diplomatic relations with any foreign state may be legitimately questioned. An act may be entirely legal and proper, violating no law or constitutional precept, and yet be inadvisable or impracticable. Some Catholics as well as many Protestants in the United States question the proposal on these grounds. In the controversies

to which President Truman's action have given rise, Catholics have for the most part confined themselves to resisting the claim that the proposal if carried through will put an end to the separation of church and state in the United States. There is no doubt that all intelligent Catholics would welcome a frank and calm discussion of the question on its merits as a practical political move. They feel that to treat this issue as one involving the special recognition of a Church is begging the question. The terms of President Truman's reference to the Senate indicate that what is involved is the recognition of a state as a political entity. Debate on the merits of the proposal as made would, many Catholics feel, generate less heat and shed more light.

Why an Ambassador

It is evident from a number of semiofficial reports in secular and religious newspapers that the officials in charge of Vatican diplomacy hope for approval of the President's proposal. This attitude is not hard to understand. American prestige is partly at stake. Vatican City is one of the important diplomatic "listening posts" in the world, a center that receives information which cannot be obtained elsewhere. Although there may be relatively few matters which require negotiation between the Vatican and Washington, the United States, as one of the most powerful nations of the world, should have diplomatic prestige and precedence at Vatican City. Nevertheless, under international etiquette, the personal representative of an American President must yield precedence at the Vatican to the ambassador or minister of any country accredited there, no matter how small that country may be. It is embarrassing to the diplomatic staff of the Holy See to treat with the representative of the President in a delaying, roundabout way. It is embarrassing to the President's representative to be of necessity relegated to a post lacking the honor and dignity due him.[14] It is arrogant and idle for Americans to discuss the

[14]President Roosevelt recognized the anomalies of the situation, as evidenced by a letter written in January, 1940, to Senator Josiah Bailey of North Carolina. The President wrote, in part: "Whether we like it or not, mere messenger boys, even when they are messenger boys sent by the President of the U. S., eat in the servants' hall in foreign countries—and I could have hesitated to put Myron Taylor, who after all is a very great

possibility of asking the American Ambassador to Italy to drop into the Vatican occasionally to pick up such bits of information as we may find useful in our international dealings. Neither the Vatican nor the Italian State wish to have their dignity compromised or their interests combined with one another by such an arrangement. More practically important for the United States, (since the workability of such an arrangement would not depend on us), neither Italy nor the Vatican would be likely to co-operate under such terms. Another practical consideration arises from the fact that it would be unlikely for one man to possess the different qualities and skills required for such a dual responsibility.

It is probably true that the Vatican would prefer a direct and formal relationship to the atmosphere of private and informal conversations that characterized the previous personal missions of the American Presidents. Myron Taylor was the only one of his category among representatives to the Papacy. His appointment was at best a subterfuge, a means of acquiring representation without complete acknowledgment of the fact. From the Presidents' points of view, this informal representation was probably the only position they felt able to establish in Rome without too much injury to their political futures.

Since the constitutional jurisdiction of the American Federal Government does not include the power to regulate ecclesiastical affairs, there is little need for a nuncio to be sent here in place of an apostolic delegate. It is true that under normal circumstances diplomatic exchange of representatives of like rank is the prevailing rule between states. Should that rule prevail, the Pope, upon notification of an American ambassadorial appointment, would name a nuncio, the papal equivalent of an ambassador, as his representative to the United States. On the other hand, there is precedent for his not taking such action. The United Kingdom accredits a minister to the Vatican but, evidently out of regard for

American, into such a position. Whether we like it or not, there are certain titles which carry with them the right to sit at the supper table above the salt. Whether an American . . . is called an ambassador or by some other title ought to make very little practical difference in this country, but it makes a very great deal of difference in every other country. . . ." (*Time,* November 5, 1951, 21).

British preferences, the Holy See sends no diplomatic representative to the Court of St. James. Intimation of a similar attitude on the part of the United States might well result in parallel action. The question of federal aid to schools is one of the few types of federal legislation in which the Holy See might be theoretically interested. Most laws that concern the bishops are made at the state level. It is difficult to see where the appointment of a nuncio would have any advantage over that of an apostolic delegate in such a matter as federal educational aid. Members of the hierarchy, as American citizens, have already expressed themselves on this subject. There has been question raised as to whether, after being accustomed to deal relatively informally with an Apostolic Delegate sent to themselves, the American Bishops would relish having to deal more formally with a papal representative accredited to their government. Nor can they relish, on the other hand, the recent low rank of their nation at the papal court.

Collaboration between Church and State

In some of the older, so-called Catholic countries of the world, the authorities of the Church consult with the heads of state over such matters as the constitution and division of dioceses, the selection of bishops, the teaching of religion in the schools, and the laws governing marriage, religious orders, ecclesiastical and religious property, and the maintenance of cemeteries. In these countries the general principles are usually laid down in agreements, called concordats, between the Church and the state. The diplomatic representatives consult each other over the detailed application of principles. Whenever any of the aforementioned matters comes to the attention of the Popes, it is usually referred, by way of the Cardinal Secretary of State, to the Sacred Congregation on Extraordinary Ecclesiastical Affairs, which acts accordingly as a subordinate branch of the Secretariate of State. This Congregation therefore prepares concordats and deals with matters of unusual delicacy in church-state relationships. At one time it had charge of the government of the dioceses of South America as well as of seven apostolic vicariates and three prefectures there. It also had charge of the three apostolic delegations of Cuba, the Philippines, and Mexico, and of the Catholic dioceses in Russia

and in Portuguese Asia and Africa. Today the only representative of the Pope who is dependent on this Congregation is the internuncio to India.[15] Affairs of the Church in the Soviet Union are entrusted to a Commission on Russia, which remains subordinate to this Congregation. The Pope maintains a Pontifical Russian Seminary in Rome to train Russian priests to serve Russian Catholics of the Uniate Eastern Rite.

Ethiopia has a special envoy and Mexico an apostolic visitator as a temporary observer in place of an apostolic delegation but, as already stated, Ethiopian affairs are handled in the Congregation of the Oriental Church, and Mexican affairs in the Consistorial Congregation.

The Eastern Churches and the Vatican

The work of the Congregation of the Eastern (or Oriental) Church might be classified as diplomatic, but this would not be an exact classification. It is rather a congregation whose work exactly parallels that of the Consistorial Congregation, or that of the Congregation for the Propagation of the Faith, in a special and limited area. It deals with religious and ecclesiastical questions which arise in that part of the Catholic Church which does not use the Latin rite or the Latin language in its services, but is nevertheless an integral part of the Roman Church. The Oriental or Eastern Catholic Churches, called "uniate" because they are in full communion with the Roman Catholic Church, must be distinguished carefully from the Eastern Orthodox Churches, which are in schism from the Roman Church. They must also be distinguished from the distinctly nationalistic offshoots of the Eastern Orthodox Churches which came into being during the period of Peter the Great of Russia, and in the nineteenth century. The Eastern Orthodox Churches broke away in schism from the Roman Church towards the end of the eleventh century and set up separate liturgies under schismatic patriarchs who fulfilled somewhat the role of metropolitans or archbishops in the Western Church.

In the early Church, before this schism, only the bishops of

[15] *National Catholic Almanac, 1951,* 96.

Rome, Alexandria, and Antioch were called patriarchs. Later the bishops of Jerusalem and Constantinople were thus honored. Of these five major patriarchates, three are now merely titular; there is a resident Latin Patriarch of Jerusalem who has jurisdiction over Catholics in Palestine and Cyprus, and the Pope is Patriarch of the West. The major Latin Patriarchs of Alexandria, Antioch, and Constantinople, and the minor Latin Patriarchs of the West Indies, the East Indies, Lisbon, and Venice are merely titular patriarchs. The title gives the possessor an honorary rank by which he may take precedence over other bishops in processions and at ecclesiastical meetings.

In the Eastern Orthodox or schismatic Church, however, the title of patriarch indicated the possession of limited administrative jurisdiction. The Eastern Orthodox Church maintained a liturgy and belief in the seven sacraments, and accepted doctrinal definitions and teachings of the first seven oecumenical councils of the Roman Church. It denied the doctrine that the Holy Ghost proceeds from the Father and the Son, and also refused to accept the doctrines of the supremacy of the See of Peter and of papal infallibility. It kept its unity by a close observance of tradition and by deference to the Scriptures. As national branches of the Orthodox Church have broken away and sometimes become heretical as well as schismatic, national so-called Orthodox Churches have multiplied, together with national patriarchs created by the clergy or the governments of the nations. As as result, it may require extensive investigation to discover the exact nature of an "Orthodox" Church.

In the course of time a number of Eastern Catholics severed their connections with schismatic Churches and returned to the Roman Church by accepting its doctrines. These returning Eastern Catholics were sometimes called Uniates. With the approval of the Roman, or Latin, Church, they set up Catholic Churches under Eastern Catholic patriarchs and Eastern Catholic bishops. They continued to use traditional or native languages in their religious services, and one or another Eastern rite. By far the best known of these Eastern Rite Catholics are about seven million who follow the Byzantine Rite of the Orthodox Church. Among

those using this rite, some utilize the Greek language, some the Arabic, some Old Slavic, some Hungarian, some Romanian, as well as other languages and dialects.

There are other groups which have never been in schism with the Roman Church, but have never used the Roman rite; yet most Eastern Catholics are reunited schismatics. Seven other Eastern rites are used in addition to the Byzantine. Ancient classical languages such as Coptic, as well as modern speech, are used in them. In recent years unofficial estimates indicate that there were about 160 million non-Catholics of the Orthodox schismatic Churches, and eight and one-third million Eastern Catholics in communion with the Church of Rome, or a ratio of about nineteen Orthodox to one Catholic.

From the administrative point of view this body of Eastern Catholics requires special attention. The Eastern Catholic Churches were not subordinated to the Consistorial Congregation, but were at first organized under a subordinate commission, or subcongregation of the Congregation for the Propagation of the Faith. For some time the missions or parishes of the Eastern Churches were subjected to bishops resident in the Near East, the Balkan countries, India, and Russia. However, with the emigration of many of these Catholics to the United States, Canada, and elsewhere, it became impracticable to maintain the authority of bishops who resided so far away from the emigrants.

Therefore a special jurisdiction was created for emigrants. Catholics of the Eastern rites, wherever they are, may have parishes which are exempt from the control of the local bishop, but subject to the supervision of a bishop of an Eastern rite. A diocese of the Byzantine Rite was established in 1913 at Philadelphia. It now has a bishop and an auxiliary bishop who exercise jurisdiction over all Byzantine Rite Catholics in the United States. In 1924 a similar diocese of the Greek Rite was established at Pittsburgh. Canada has several foundations, including among them Ukrainian (Byzantine) Catholics. A Franciscan commissariat at Clifton, New Jersey, has adopted the Byzantine Rite with the special permission of the Holy See to provide pastors and missions for Slavs of the Byzantine Rite.

Changes in the situation of Eastern Catholics in the Baltic and Balkan countries and in the Near East, after the First World War and the Russian revolution, were so extensive and important that in December, 1917, Pope Benedict XV separated the work of the Oriental Church from that of the Congregation for the Propagation of the Faith. He set up a new Congregation for the Oriental Church and emphasized its significance by himself becoming its prefect.

Supervision over the affairs of the Church in Russia had already been transferred from the jurisdiction of Propaganda to that of the Sacred Congregation on Extraordinary Ecclesiastical Affairs by Pope Pius X. Although the organized Latin Church is almost extinct in the U.S.S.R., where there is a single congregation in Moscow for foreign Catholics, provided for by treaty and theoretically to be served by a Catholic priest from the United States, there are in Europe and elsewhere groups of Eastern Catholics who use Old Slavic in their liturgy. Some of them are Catholic refugees from Russia and others are converts. Although the Russian revolution has been going on for over thirty years, there may yet be Eastern Catholic priests hidden among the Russian people, and older Russian members of the laity who, like the laity of old Japan, hold the faith of their fathers close to their hearts, while they cannot observe it in the open.

Is the Church Totalitarian?

To come to the final questions: If the Church is not a world government, how far does it have world-wide authority? How does it compare with two newer world organizations, the United Nations and the world-wide Communist Party?

The world-wide authority of the Church derives from the will of its divine Founder. It rests on the sacramental and teaching mission with which He charged the Apostles, and is exercised by a government which He established. Its administrative structure has been developed as means of continuing its faith unsullied and its sacramental life vigorous from generation to generation. If it has any power, in the worldly sense of political power, that power can come only from the spiritual forces that flow from

the example of Christian lives of justice and charity. Its spiritual jurisdiction, its teaching mission, and its basic governmental structure are divine in origin. As a means of maintaining its spiritual union, the Church has a world-wide unity of law, promulgated by oecumenical councils of bishops and by decrees and judgments of the Pope and the curia. It has been accused by its enemies of being a totalitarian Church, but this accusation ignores many facts. It is true that none of the officers of the hierarchy, from subdeacon to Pope, is elected by the laity, but neither are the expert administrators and advisers of modern nations elected by the citizens of states. As noted above, the laity forms the only reservoir from which the clergy may come and ultimately rise into the hierarchy.

The bishops and the Pope share exclusive powers of order to ordain clergy and consecrate other bishops, so their offices are self-renewing and not elective. But in the progress from priest to bishop, from bishop to archbishop, and from archbishop to Pope in the hierarchy of jurisdiction there are elections, as there are also elections in religious orders. Religious orders follow a political principle, seldom breached, that after a six-year term in elective office a superior steps down in rank, yielding his place to one over whom he has ruled, in order that he may experience again the necessity for obedience. The promotion of priests from curate to pastor usually takes place not at the complete whim of the bishop but, in organized territories of the Church, as a result of the recommendation of diocesan examiners or after consultation with cathedral chapters, a process which recognizes the merit principle used by both republican and monarchical governments in selecting public personnel.

Further evidence that the Church is not totalitarian in form or procedure can be found in the elections of the Popes. The office of Pope is attached to the diocese of Rome; the Pope is Pope because he is elected to be Bishop of Rome. In early times the Popes were elected by the clergy and bishops of the Roman diocese, often with participation of the laity. In the late Middle Ages the elections of the Popes often occasioned scandalous quarrels among Roman factions, or among national factions in the Church, or between the Church and the Empire. At times a Pope has been

nominated by an Emperor of the Holy Roman Empire. It was primarily as a means of fixing on the diocese of Rome the responsibility for choosing the Pope that the College of Cardinals, when created, was drawn from the bishops of the Roman diocese, and the pastors and deacons of Roman churches.

Today the election of a Pope takes place in a conclave isolated from outside interference, but the cardinals of the Sacred College who elect him are still actually or nominally connected with the Apostolic See, the diocese of Rome. Popes are nevertheless elective officers. There are no set qualifications for the position. A layman might be, but is not likely to be, elected Pope.

The doctrines of papal infallibility and Petrine supremacy, together with the infrequency of oecumenical councils, are set forth by critics of the Church as evidence of the absolute character of Church government. These arguments entirely ignore the nature of the Church and overlook the whole contemporary trend in civil governments. When civil legislatures are confronted with a technical problem, their tendency is to set up an administrative department or agency with experts as members or consultants, and to give it a moderate amount of discretion in applying the policy set down by the legislature. When the philosophy underlying a constitution needs to be interpreted in a civil government, it is accomplished either by a supreme elected legislature or through review by a non-elective supreme court. Modern constitutions however, are not based on a revealed faith as is the Church. Many of the present problems of the Church are nevertheless matters which require the attention of expert congregations rather than legislative consideration. The Pope does not require the consent of his fellow bishops to add to or subtract a congregation from those already in existence.

Anyone who has read the history of the Catholic Church knows how much of its development has depended upon its bishops, priests, and laity as well as on the Popes. In oecumenical councils bishops have assisted and may yet assist the Popes in defining dogma and in organizing or reforming the government of the Church. Advocates of the conciliar theory of Church government argue that bishops are entitled to decide such matters by majority

vote. Bishops, however, do not attend oecumenical councils as representatives of anything other than the whole Church; as successors, not singly but in a collective sense, to the Apostles. Their relationship to the Pope is not one of federal union in which bishops and Pope have distinct and different areas of power, nor is it a completely unitary relationship in which all power flows from the Pope downwards. They are all parts of a whole to which they, too, are subordinate. They are equals to the Pope in order, but he is their superior in jurisdiction. The faith is not a matter of policy to be defined by a legislature or council, a constitution to be interpreted by judicial review or amended by human wills. It is a body of revelation which the Church transmits from generation to generation. Where faith must be defined, in accordance with scripture and tradition, the bishops recognize, profess and defend the primacy and infallibility of their fellow bishop of Rome. No longer are councils needed as they have been in the past. Through widespread Catholic Action the Pope and bishops are drawing into fuller activity the apostolate of the laity on a world-wide scale.

The Church and the United Nations

The Catholic Church has been a worldwide organization for several hundred years, and its universal character is deepening. During the last century other organizations have been extending their functions beyond national boundaries; we now have several hundred such organizations with differing ranges of jurisdiction. Of these the two most outstanding today are the United Nations and the Commnist Party. How does the Church compare with them?

The United Nations, successor to the League of Nations, has very little resemblance to the Church either in its powers or its form. It is a union of the governments of sixty states varying in size from Yemen to the U.S.S.R. Some of the members of the United Nations have been long established as states; others are members of the Commonwealth of Nations (no longer called British), or are so-called republics within the U.S.S.R. Many

states recently admitted are ex-colonies or dependencies enjoying a newly-established freedom.

None of the Axis partners in the Second World War—Germany, Italy, Japan—is a member. The nations which remained neutral in that war have not yet been admitted; the government of Spain is excluded. The State of Vatican City was not invited to become a member, but it is very doubtful whether the Pope would have accepted had he been asked. The United Nations is charged with settling disputes among nations and with the prevention of war by both positive and negative action through the regulation of armaments and the stimulation of international cooperation. In the United Nations the source of power is the consent of sovereign states. Power flows from the states, through national representatives, to the Assembly, the Court, and the three great Councils. A diagram of the United Nations would look like an inverted pyramid, exactly the reverse of one of the Catholic Church, where jurisdiction flows from the top to the base, both in the dioceses and in the Universal Church.

Many of the aims of the United Nations coincide with or run parallel to the social aims of the Church for humanity as a whole. Among them are the prevention of war, the regulation, reduction, and end of armaments, provision for world-wide security against aggression, the achievement of justice among nations, the development of fair labor standards, the rehabilitation of devastated areas, the improvement of the conditions of dependent peoples and of women, children, and refugees, and the health and welfare particularly of the impoverished people of the world. It is therefore fitting and necessary that Catholic groups act as consultants in the conferences of United Nations bodies. Most of the power so far delegated to the United Nations is not discretionary but administrative, although if it were actually permitted to exercise political power, it could grow into a world state. If it ever became such a world-wide community, the Catholic Church would in comparison, resemble a large world party with a very small territorial base. At present, however, the United Nations is not a community, and the Catholic Church is one.

The Church and the Communist Party

How does the Catholic Church compare with the Communist Party? This question is asked here because many other people are asking it today, and some of them are trying to draw parallels between the two bodies. Modern students of philosophy who are looking for a more adequate definition of liberty see the obvious historical conflicts of doctrine and ideology between the Catholic Church and the Communist Party. All too frequently they look on both as parties struggling for the political control of the world. Such people often regard both the Church and the Party as totalitarian and therefore as menaces to freedom. Such an analysis completely disregards the doctrines of the two bodies concerning the nature of mankind and the role of government, and sees only the superficial similarity of forms and procedures. In the organization of the two bodies there are, accidentally or by design, strong parallels. The Communist Party, like the Catholic Church, has a pyramidal structure that is based on multitudes of small cells, much smaller than parishes, crowned by the Central Executive Committee of the Communist Party of the Soviet Union. It has nothing that corresponds to a bishop, but within limits and at intervals, its national party branches, even its urban units, have an autonomy that is similar to that of a bishop. Its Cominform and the predecessor thereof, the Comintern, have the consultative functions of an oecumenical council or of a consistory, but not the elective functions of a conclave. Stalin, the Secretary of the Party, is elected by the Central Executive Committee, which he is largely instrumental in appointing. This method of selection superficially resembles that of selecting Pope and cardinals, except that the officers of the Church usually hold office for life, which cannot be said of members of the Central Executive Committee, some of whom have found that holding office leads to degradation, banishment, and even death. The Party line, determined by the Central Executive Committee, has nothing of the permanence of a dogma defined by the Pope or Holy Office. The Party line can one day be diametrically opposite to what it was the day before. Party workers are internationally trained in Moscow as Catholic semina-

rians are at Rome, but not in similar things. Communist children get early indoctrination and training, but not in the catechism or the Ten Commandments; they have no sacraments, no higher loyalty than to their Party, and no concept of sin. Their end, to them, justifies their means. If Communists were to achieve their aims, there might be a world-wide totalitarian state, dominated by their large territorial base, the U. S. S. R. National trends within the Party indicate that a federal union or confederation of Communist states might prevail, rather than Russian control. Communists reserve the right to liquidate all opponents, or otherwise prosecute or persecute them as treasonable partisans.

This the Church could not do. It is not partisan but universal, a shepherd of men. Its highest officers, although subject, as citizens, to man-made law are, as officers, subject also to the eternal and unchanging laws of justice, truth, and charity found in the Mosaic Code and in the Sermon on the Mount. Its members also know the source and nature of the authority of the Church; the knowledge is not confined to officers. Moreover, the officers, in their personal lives, share with their lowliest subjects in the necessity of submitting their sins to the judgment of another in the Sacrament of Penance. "As a *fidelis* the cleric himself is as fully dependent on clerics 'for the faith of Christ and the sacraments of the faith' as is the *fidelis* who is a layman."[16]

The Church and the Laity

At the bottom of the administrative structure of the Church, whether viewed in each diocese or in its world-wide character, are its unordained or lay members; but these are not passive pawns. As we have seen, they are the reservoir of the faith; they raise the children who become priests and rise into the hierarchy. They act as aides to the priest in parish work; they may serve as consultants to bishops, cardinals, and even to Popes. More and more Popes and bishops are calling them into the teaching work of the Church, in lay associations, and even as lay missionaries. "The layman *as such* has his *ius* in that particular ecclesiastical activity—the realization of the divine prayer 'Thy Kingdom come

[16]Hughes, *op. cit.*, 83

on Earth'—which is the very *raison d'être* of the Church of Christ; the layman, too, is an ecclesiastical person. And the radix of his rights and duties as such, to the exercise of which the popes invite and urge him, is a character given him by sacraments—by the sacraments of Baptism and Confirmation.

"The laymen who thus rise to the fullness of their vocation have a real place in the hierarchy's business of 'apostolizing'; they are an organism of the Church, and not a mere organization within it. . . . As in the thirteenth century the popes did a revolutionary thing by calling in an order of priests for the express purpose of sharing duties until then regarded as specifically episcopal, viz. the preaching of doctrine, so now in the twentieth century the popes invite the layman to take his place—his own place, that none but a layman can fill—in the general task of evangelization.

"There is surely nothing more remarkable in contemporary Catholicism than this development. For few things will the Church ever be more indebted to the popes of our own time. There is no more evident sign that the Holy Spirit is guiding the Church through the popes. . . . Already, wherever the popes have evoked such a response, a new spirit is evident at work, and especially a new spirit of active general charity that often touches the heroic; and the lines of a new kind of world are faintly discernible. . . . The aim of Catholic Action is not the production of a layman who will be a kind of clergyman: the role destined for the layman of the new age is one that he can only fulfil in the measure that he is wholly a layman. . . . The layman will not strive to achieve the impossible task of producing out of that world, a new, clergy-dominated universe, but representing in that world the primacy of the spiritual, and ultimately ensuring it, he will link that world as a means to ends that are supernatural, and will thereby fulfil, as none but the layman can fulfil it in the realm of nature, that reconciliation to which Our Lord's words surely point, 'Thy Kingdom come, on Earth as it is in Heaven'."[17]

[17] *Ibid.*, 85-88.

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